

THE

CASE-NOTED UNREPEALED ACTS

OF THE

BENGAL COUNCIL

1862-1918.

N. D. BASU, B. L.

'cutta:

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PREFACE.

As will appear from the title page this volume contains all the Unrepealed Acts of the Bengal Council from 1862 to 1918.

To enhance the usefulness of the work, important rulings of the High Courts have been noted in the proper place. In every Act which has been amended, the amendment has been carefully embodied. A chronological table showing how each Act has been repealed, amended or otherwise modified, has been prefixed to this work. An index of titles of the Acts have also been added at the end of the book.

The only Act which has been omitted from this volume is the Calcutta Municipal Act. The reason for this omission is that it is in force only in the town of Calcutta and moreover a Bill for this Act is pending before the Legislature and is expected to be passed very shortly. It is hoped that this omission will not affect the usefulness of the work.

CALCUTTA,

N. D. BASU.

2-6-19.

THE

UNREPEALED ACTS

OF THE

BENGAL COUNCIL.

1862-1918.

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CHRONOLOGICAL TABLE OF BENGAL ACTS.

Year.	No.	Short title or subject	How repealed or otherwise affected by legislation.
1862	ı	Hoistings Signals, Hoogly	Rep. by Act 12 of 1875.
	2	Small Cause Courts	Rep. by Act 12 of 1873.
	3	The Bengal Land Revenue Sales (Am endment) Act, 1862.	Rep. in part by Act 12 of 1873. Ditto by Act 1 of 1903. Ditto by Ben. Act 2 of 1906. Ditto by E. B. & A. Act 1 of 1907.
,	4	Discipline in Great Jail, Calcutta.	Rep. by Ben. Act 5 of 1865.
	5	Survey of Steamers	Rep. by Act 6 of 1865.
	6	The Bengal Rent Act, 1862	Rep. in part by Act 7 of 1870. Ditto (locally) by Act 8 of 1885.
	•		Ditto by Act I of 1903. Rep. by Ben. Act I of 1879. Rep. (whole) in Bihar and Orissa by B. & O. Act 2 of 1913. Amended by Act I of 1903. Supplemented, Ben. Act 4 of 1867.
	7	Bengal Land iRevenue Resumption Act, 1862.	Rep. in part by Act 12 of 1873. Ditto by Act 16 of 1874. Rep. (locally in Assam) Reg. 1 of 1886.
	8	The Bengal Zamindari Dâk Act, 1862.	Rep. in part by Act 2 of 1873. Ditto by Ben. Act 7 of 1880. Rep. by Act 4 of 1907. Rep. by Act 10 of 1914. Amended by Act 5 of 1897. Rep. (in Assam) Act 5 of 1897.
	9	Registration of Deeds	Rep. by Ben Act a of 1865.
1863	1	Port Canning	Rep. by Act 12 of 1875.
	2	Smoke Nuisances, Calcutta	Rep. in part by Act 12 of 1876. Rep. by Ben. Act 3 of 1905.
	3	Transport of Native Labourers	Rep. by Ben. Act 2 of 1870.
	⁻ 4	Chittagong Hill Tracts,	Rep. by Reg. 1 of 1900.
	6	Calcutta Municipality	Rep. by Ben. Act 4 of 1876.
1864	ı	Hackney Carriage, Calcutta	Rep. by Ben. Act 5 of 1866.
	2	Jails	Rep. by Act 9 of 1894.
	3	The District Municipal Improvement Act.	Rep. by Ben. Act 5 of 1876.

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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.
1864	4	The Bengal Districts Acts	Rep. (locally in Assam) by Reg. 1 of 1886.
	5	The Canals Act, 1864	Rep. in part by Act 12 of 1873. Ditto by Act 1 of 1903. Rep. (in Assam) by Act 5 of 1897.
	6	Inspection of Steam-boilers, Cal-	Rep. by Ben. Act 3 of 1879.
	7	Salt	Rep. in part by Act 12 of 1873. Ditto by Act 12 of 1882. Ditto by Act 1 of 1903. Rep. (in Assam) by A:t 5 of 1897.
1865	1	Court of 24-Perganas	Rep. by Act 12 of 1873.
	2	Registration of Deeds	Ditto ditto.
	3	Fine in Parts	Rep. by Act 8 of 1881. Rep. by Act 1 of 1903.
	4	The Bangal Prevention of Inoculation Act, 1865.	Rep. in part by Act 1 of 1903.
	5	Jails (Amending Ben. Act of 1864)	Rep. by Act 9 of 1894.
	6	Transports of Native Labourers	Rep. by Ben. Act 2 of 1870.
	7	The Bengal Municipal Slaughter- houses and Meat Markets Act, 1865	Rep. in part by Act 1 of 1903. Rep. (in Suburbs of Calcutta) by Ben Act 4 of 1876. Rep. (in Assam) by Act 5 of 1897. Amended by Act 1 of 1903.
	8	The Bengal Rent Recovery (Under- Terures) Act, 1865,	Rep. in part by Act 12 of 1873. Ditto by Act 1 of 1903. Ditto (in Assam) by Act 5 of 1897. Rep in part in B. & O. by B. & O. Act 2 of 1913.
	9	Calcutta Municipality (Amending Ben. Act, 6 of 1863).	Rep. by Ben. Act 4 of 1876.
1866	1	Ferries (including Ken. Reg. 6 of 1819).	Rep. (in Bengal) by Ben. Act 1 of
	2	The Calcutta Suburban Police Act.	Rep. in part by Ben. Act 2 of 1867. Rep. by Ben. Act 1 of 1869. Rep. by Ben. Act 1 of 1890. Rep. by Ben. Act 6 of 1905. Rep. by Ben. Act 3 of 1910. Rep. in part by Act 1 of 1903. Ditto by Ben. Act 5 of 1915. Ditto do. Act 2 of 1886. Ditto do. Act 2 of 1895.

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Vaar.	No.	Short title or subject.	How repealed or otherwise affected by legislation.
1066	3	The Bengal Legislative Councils Witnesses Act, 1866.	Rep, in part by Act 1 of 1903. Amended by Reg. 3 of 1899. Do. by Ben. Act 1 of 1914.
	4	The Calcutta Police Act, 1866	Rep. in part by Act 12 of 1873. Ditto by Act 12 of 1875. Ditto by Act 4 of 1877. Ditto by Ben Act 2 of 1867. Ditto by Ben. Act 1 of 1869. Ditto by Ben. Act 1 of 1890. Ditto by Ben. Act 3 of 1910. Ditto by Ben. Act 2 of 1876. Do. by Ben. Act 2 of 1876. Do. by Act 2 of 1886. Do. by Act 3 of 1897. Do. by Act 3 of 1907. Do. by Act 4 of 1913. Do. by Act 5 of 1915.
	5	Hackney Carriages	Rep. (in Bengal) by Ben. Act 2 of 1891. Rep. (in Assam) by Act 12 of 1891.
	*6	Calcutta Municipality (Amending Ben. Act 6 of 1863).	Rep. by Ben. Act 4 of 1876.
	7	The Bengal Embankment Act,	Rep. (locally) by Ben. Act 6 of 1873. Rep. in part by Act 1 of 1903. Rep. by Ben. Act 4 of 1915.
	8	Calcutta Police (Amending) Ben. Act 4 of 1866.	Rep. by Act 4 of 1877.
í	, 9	Resisting Apprehension	Rep by Act 12 of 1873.
	10	Port of Calcutta	Rep. by Ben. Act 5 of 1870.
1867	1	Calcutta Municipality (Amending Ben Act 6 of 1863).	Rep. by Ben. Act 4 of 1876.
	2	The Bengal Public Gambling Act, 1867.	Amended by Ben. Act 3 of 1897. Rep. in part by Act 1 of 1903. Amended by Ben Act 4 of 1913. Rep (in Assam) by Act 12 of 1913.
	3	The Bengal Ports Act, 1867	Rep. in part by Act 12 of 1873. Ditto by Act 12 of 1875.
	4	The Bengal Rent (Appeals) Act 1867.	Rep. (locally) by Act 8 of 1885. Ditto by Ben. Act 1 of 1879. Amended by Act 1 of 1903. Rep in part by Act 1 of 1903. Rep. (whole) in B. & O. by B. & O. Act 2 of 1913.
		The Bengal Rent (Appeals) Act	Rep. in part by Act 12 of 187. Ditto by Act 12 of 187. Rep. (locally) by Act 8 of 188. Ditto by Ben, Act 1 of Amended by Act 1 of 1903. Rep in part by Act 1 of 1903. Rep. (whole) in B. & O. by B.

Year.	No	Short title or subject.	How repealed or otherwise affected by legislation.
∙ 867	5	General Clauses Act	Rep. in part by Act 5 of 1897. Rep. (in Bengal) by Ben. Act 1 of
	6	Police in Towns and Municipalities.	1899.
	7	District Municipal Improvement (Amending) Ben Act 3 of 1869.	Rep. by Ben. Act 5 of 1876.
	8	E I. Irrigation Co., Water-rates	Rep. by Ben. Act 3 of 1876.
	9	Calcutta Municipalities (Amending Ben Acts 6 of 1863 and 6 of 1866).	Rep. by Ben. Act 4 of 1876.
	10	Settlement in Cuttack, etc	Rep. by Act 1 of 1903.
	11	Calcutta Police and Pauper hospitals.	Rep. by Ben Act 4 of 1876.
1868	1	The Steam Boat Survey Amend- ment Act, 1868	Rep. by Act 6 of 1884.
	2	District Municipal Improvement (Amending Ben. Act 3 of 1864).	Rep. by Ben. Act 5 of 1876.
	3	The Bengal Land Revenue Settle- ment Act, 1868.	Rep. in part by Act 12 of .873. Rep. (locally in Assam) by Reg. 1 of 1886. Rep. by Act 1 of 1903.
	4	The Bengal Alluvion (Amendment) Act, 1868.	Rep. in part by Act 12 of 1873. Rep. (locally) by Reg. 1 of 1886, Rep. by Act 1 of 1903.
	5	The Hastings Municipal Act, 1868.	Rep. by Ben. Act 4 of 1876.
	6	The District Towns Act, 1868	Rep. by Ben. Act 4 of 1876.
	7	The Bengal Land Revenue Sales Act, 1868.	Rep. in part by Act 12 of 1873. Ditto by Ben. Act 7 of 1880. Ditto by Act 1 of 1903. Amended by Ben. Act 2 of 1871. Rep. (locally in Assam) by Reg. 1 of 1886.
	8	Repealing Act 21 of 1857 in Suburbs of Calcutta.	Rep. by Act 16 of 1874.
1869	ı	The Bengal Cruelty to Animals Act, 1869.	Rep. in part by Act 12 of 1873. Amended (in Bengal) by Ben. Act 3 of 1900. Amended by Act 1 of 1903.
	2	The Chota Nagpur Tenures Act, 1869.	Rep. in part by Act 2 of 1870. Ditto Act 1 of 1903.
	3	Bengal Cruelty to Animals (Arrest) Act, 1869.	Rep. by Act 1 of 1903 b

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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.
1869	4	Port of Calcutta	Rep. by Ben. Act 5 of 1870.
	5	Courts of Session	Rep. by Act 1 of 1903.
	6	Irregation rates	Rep Ben. Act 3 of 1876.
	7	The Bengal Police Act, 1869	Rep. in part by Ben. Act 1 of 1903. Ditto by Act 1 of 1903.
	8	The Landlord and Tenant Procedure Act.	Rep. in part by Act 7 of 1870. Rep. (in Bengal) by Act 8 of 1885.
1870	. 1	The Calcutta Water Rate Act, 1870.	Rep. by Ben. Act 4 of 1876.
1	2	Transport of Native Labourers	Rep. by Act 7 of 1873.
	3	Transfer of cer'ain suits to Civil Courts.	Rep. by Act 12 of 1873.
	4	The Court of Wards Act, 1870	Rep. in part by Act 12 of 1873. Ditto by Ben. Act 9 of 1879
	5	The Calcutta Port Improvement Act, 1870.	Rep. by Ben. Act 3 of 1890.
	à	The Village Chaukidari Act, 1870	Rep. in part and amended by Ben. Act 1 of 1892. Amended by Ben. Act 1 of 1871. Do. by Ben. Act 1 of 1886.
	7	The Dacca Conservancy Act, 1870	Rep by Ben. Act 5 of 1876.
1871	1	The Village Chaukidari, Act 1871	Rep in part by Act 5 of 1887. Ditto by Act 1 of 1903.
,	. 2	The Bengal Land Revenue Sales (Amendment) Act, 1871.	Rep (locally in Assam) by Reg. 1 of 1886. Rep in part by Act 1 of 1903.
	3	Fees for Survey of Steamers	Rep. by Act 6 of 1884.
	4	The Pooree Lodging-house Act, 1871.	Rep. 10 part by Ben. Act 5 of 1876. Ditto by Act 1 of 1903. Amended by Ben. Act 2 of 1879. Ditto ditto 1 of 1884. Ditto ditto 3 of 1908. Ditto ditto 5 of 1915. Ditto by B. & O. Act 3 of 1916.
	5	The Hoogly and Burdwan Drain- age Act.	Rep. by Ben. Act 6 of 1880.
	6	Calcutta Municipality (Amending Ben. Act 6 of 1863).	Rep. by Ben. Act 4 of 1876.
	7	The Calcutta Port Improvement	Rep by Act 1 of 1903.

Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.
1871	-8	The Calcutta Markets Act, 1871	Rep. by Bon. Act 4 of 1876
	9	The Howrah Bridge Act, 1871	Amended by Ben Act 3 of 1880. Ditto Ben. Act 3 of 1888.
	10	The District Road Cess Act, 1871	Rep. (in Assam) by Act 5 of 1897. Rep. (in Bergal) by Ben. Act 9 o 1880.
	11	Census	Rep. by Act 1 of 1903.
1872	,	Muncipal Debt Calcutta	Rep. by Ben. Act 4 of 1876
	2	The Jute Warehouse and Fire Brigade Act, 1872	Rep. by Ben. Act 5 of 1870.
•	3	Calcutta Port Improvement(Amend- ing Ben. Act 5 of 1871).	Rep. by Art 10 of 1889.
1873	¥	The Bengal Salt Act, 1873	Amended by Act I. of 1903. Rep. (in Assam) by Act 5 of 1897. Rep. by Ben. Act 5 of 1876.
	2	District Municipal Improvement; District Towns (Amending Ben. Acts 3 of 1864 and 6 of 1868).	Rep. by Ben. Act 5 of 1876.
	3	Excise	Rep. by Ben. 7 of 1878.
1	. 4	The Bengal Births and Deaths Registration Act, 1873.	Amended by Act 1 of 1903. Sup by Ben, Act 5 of 1876 Sup, by Ben, Act 3 of 1884.
	5	Lighting-rate Howrah	Rep by Ren. Act 3 of 1884.
	6	The Bengal Embankment Act, 1873.	Rep. in part and amended by Ben. Act 2 of 1682 Rep. by Act 5 of 1897
	7	The Labour Districts Emigration.	Rep. by Act 1 of 1882.
1874	ſ	Police in Calcutta Suburbs (Amending Ben. Act 2 of 1866).	Rep. in part by Ben. Act 7 of 1872. Rep by Act 1 of 1903.
	2	The Calcutta Markets Amendment Act, 1874.	Rep. by Ben Act 4 of 1876.
1875	1	Realization of Arrears in Government Estates.	Rep. ևv Ben Act 7 of 1880.
	2	Jute Warehouse (Amending Ben. Act 2 of 1872).	Rep. by Ben. Act 5 of 1879.
	3	Inspection of Steam Boilers (Amending Ben. Act 6 of 1864)	Rep. by Ben Act 3 of 1879.
	4	Realization or famine loans	Rep. in part by Ben. Act 7 of 1880. Rep. by Act 1 of 1903.

_			How repealed or otherwise
ear.	No.	Short title or subject.	affected by legislation.
875	5	The Bengal Survey Act, 1875	Rep. in part by Act 1 of 1903. Ditto by Ben. Act 7 of 1880 Amended by Ben. Act 5 of 1915. Rep. (in Assam) by Act 12 of 1891
876	1	The Bengal Mahammadan Mar- riages and Divorces Registration Act, 1876.	Amended by Act 1 of 1903.
	2	The Calcutta Police (Amendment) Act, 1876	Rep. in part by Ben. Act 7 of 1878
	3	The Bengal Irrigation Act, 1876	Rep. in part by Act, 1 of 1903. Rep. in part by Ben. Act, 7 of 188 Amended by Act 1 of 1903. Amended by B. & O. Act 3 of 1918
	4	The Calcutta Municipal Consolida- tion Act, 1876	Rep. by Ben. Act 2 of 1888.
	5	The Bengal Municipal Act, 1876	Rep. in part by Act 2 of 1901. Ditto by Ben. Act, 3 of 1882
	6	The Agrarian Disputes Act, 1876.	Rep. by Act 1 of 1903.
	7	The Land Registration Act, 1876.	Rep. in part by Ben. Act 7 of 188c Ditto by Act 1 of 1903. Amended by Ben. Act 2 of 1878. Do. by Ben. Act 2 of 1906. Do. by E. B & Assam Act of 1903. Amended by Ben. Act 1 of 1914 Rep. in part by Ben. Act 1 of 1914 Amended by Ben. Act 1 of 1914. Do. by Ben. Act 5 of 1915. Do. by B. & O. Act 3 of 1916
ì	8	The Estates Partition Act, 1876	Rep. by Ben. Act 5 of 1897.
877	1	Jute Warehouses (Amending Ben. Act 2 of 1872 and 2 of 1875).	Rep by Ben Act 5 of 1879.
	2	The Provisional Public Works Act 1877.	Rep. by Ben Act 9 of 1880.
1878	1	The Bengal License Act, 1879	Kep by Ben. Act 2 of 1880.
	2	Extending Ben. Act 7 of 1873 (Emigration to Assam) to Chittagong.	Rep. by Ben. Act t of 1882.
	3	Powers of Settlement officers	Rep. by Ben Act 8 of 1879.
	. 4	Hackney-carriages (Amending Ben, Act 5 of 1866).	Rep. by Ben. Act 2 of 1891.
	5	The, Bengal Land Registration of Amending Rent Act, 1878.	Amended by Act 1 of 1903. Rep. in part by Act 13 of 1889.

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Year	No.	Short title or subject.	How repealed or otherwise affected by legislation.
1878	.5	•	Rep. in part by Act 5 of 1897. Ditto by Act 1 of 1903. Ditto by Ben Act 7 of 1880. Rep. by B. B. & A. Act 1 of 1910. Rep. in part by Ben. Act 4 of 1881. Amended by Act 9 of 1885. Do. by Act 13 of 1890. Do. by Ben. Act 1 of 1883. Do. by Ben. Act 2 of 1905 Rep. by Ben Act 5 of 1909
	8	The Hazaribagh and Lohardaga Rural Police Act.	Rep by Ben Act 5 of 1-87.
1879	1	The Chota Nagpur Landlord and Tenant Procedure Act	Rep in part by Act 1 of 1903, 'Amended by Ben. Act 5 of 1903, Do. by Ben. Act 5 of 1905.
	2	The Puri Lodging-house Extension Act, 1879.	Amended by Ben. Act 1 of 1884. Rep. in part by Act 1 of 1903. Amended by Ben. Act 3 of 1908.
	3	The Bengal Steam-boilers and Prime-movers Act, 1879	Rep. in part by Act 1 of 1903. Amended by Act 2 of 1915 (B.C.)
	4	Passenger boats	Rep by Ben. Act 3 of 1890.
	5	The Jute Warehouses and Fire Brigade Act, 1879.	Rep. by Ben. Act 4 of 1883.
	6	The Darjeeling Steam Tramway Act.	Rep, in part by Act 1 of 1903.
	7	Inland Steam Vessels	Rep by Act 6 of 1884.
	8	The Bengal Rent Settlement Act, 1879	Amenced by Act 1 of 1903. Rep in part by Act 8 of 1885. Rep. in part by Act 1 of 1903. Rep. (in B & O) by B. & O. Act 2 of 1913.
	9	The Court of Wards Act, 1879	Ditto by Act 5 of 1897. Ditto by Ben. Act 7 of 1880. Ditto by Ben. Act 2 of 1909. Ditto by Ben. Act 1 of 1906. Ditto by Ben. Act 1 of 1914. Ditto by Ben. Act 5 of 1913. Rep. and Amended by Act 1 of 1903. Amended by E. B & A Act 1 of 1911. Amended Ditto Act 3 of 1907.
1880	1	The Calcutta Tramways Act	Do. by Ben Act 3 of 1881. Do. by Ben. Act 4 of 1892. Amended by Ben. Act 2 of 1884. Ditto ditto Act 3 of 1894.

Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.
1880	ŧ		Amended by Ber. Act 4 of 1900. Rep in part by Act 1 of 1903.
	2	The Bengal License Act, 1880	Rep. by Act 2 of 1886.
	3	The Howrah Bridge Act, 1880	Amended by Act 1 of 1903.
	4	The Calcutta Port Improvement Act Amendment Act.	Rep. by Ben Act 3 of 1890.
	5	The Bengal Vaccination Act, 18°0.	Rep. in part by Ben. Act 2 of 1890. Amended by Ben. Act 2 of 1890. Do. by Ben. Act 2 of 1887. Do. by Ben. Act 2 of 1911.
	6	The Bengal Drainage Act, 1880	Amended in part by Ben. Act 2 of 1902 Rep in part by Act 1 of 1903. Amended (in B. & O) by B. & O Act 3 of 1916. Amend by Ben. Act 5 of 1915.
	7	The Public Demands Recovery Act, 1880.	Rep. in part by Act 6 of 1889. Ditto by Act 7 of 1889. Ditto by Act 5 of 1897. Rep. in part by Reg. 1 of 1886.
	'		Rep. (in Bengal) by Bon. Act 1 o
	8	The Bongal Contagious Diseases (Animals) Act, 1880.	Rep. in part by Act 1 of 1903. Rep. by Act 2 of 1905.
	9	The Cess Act, 1880	Rep. in part by Ben Act 3 of 1885. Ditto by Act 1 of 1903. Ditto by Act 4 of 1910- Ditto by Ben. Act 2 of 1881. Ditto by Ben. Act 2 of 1981. Ditto by B & O. Act 1 of 1916. Amended by Act 7 of 1881. Ditto by Ben. Act 4 of 1910. Ditto by B. & O. Act 1 of 1916.
1881		The Calcutta Port Improvement (Amending Ben Act 4 of 1880).	Rep. by Ben. Act 3 of 1890.
	2	The Bengal Cess Amendment Act No. 2 of 1851.	Amended by Act 1 of 1903.
	3	The Bengal Court of Wards (Amending Act), 1881.	Amended by Act 1 of 1903. Rep. in part by Act 10 of 1890. Ditto by Act 5 of 1897.
	4	The Bengal Excise Act Amend- ment Act, 1881.	Rep. in part by Act 5 of 1897. Rep. by E. B. & A. Act 1 of 1910. Rep by Ben. Act 5 of 1909.
	5	The Calcutta Burial Boards Act,	Rep. in part by Act 1 of 1903.

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Year.	No.	*Short title or subject	How repealed or otherwise affected by legislation.
1881	.6	The Calcutta Municipal Consolidation Act Amendment Act, 1881.	Rep. by Ben. Act 2 of 1888.
1882	1	Calcutta Municipality Amending Ben. Act 4 of 1876.	Rep. by Ben. Act 2 of 1888.
	2	The Bengal Embankment Act, 1882.	Rep. in part by Act 9 of 1890. Dutto by Act 1 of 1903. Ditto by Ben. Act 4 of 1915. Amended by Ben. Act 5 of 1915.
18 ⁹ 3	1	The Bengal Excise Amendment Act.	Amended by Act 5 of 1897. Rep in part by Act 1 of 1903. Rep. by E. B. and Assam Act 1 of 1910. Rep. by 1 of 1903
	2	Calcutta Port Improvement Act	Rep. by Ben. Act 3 of 1890.
	3	The Bengal Tramways Act, 1883	Rep. in part by Act 1 of 1903, Amended by Ben. Act 1 of 1904.
	4	The Licensed Warehouse and Fire Brigade Act, 1883.	Rep. by Ben. Act 1 of 1893.
	5	Darjeeling and Kurseong Municipal (Porters) Act, 1883.	
1884	1	The Pooree Lodging-house (Extension) Act, 1884.	Rep. by Ben. Act 3 of 1908.
	2	The Calcutta Tramways (Amend-ment) Act.	Amended by Act 1 of 1903. Rep. in part by Act 1 of 1903.
	3	The Bengal Municipal Act	Rep. in part by Act 2 of 1901. Ditto (in Bengal) by Ben. Act 2 of 1803. Ditto by Ben. Act 1 of 1893. Rep. in part and amended by Ben. Act 4 of 1894. Rep in part by Ben. Act 2 of 1896. Ditto by Ben. Act 1 of 1900. Amended by Ben. Act 3 of 1886. Do. by Act 5 of 1897. Do. by Ben. Act 2 of 1910. Do. by Ben. Act 2 of 1914. Do. by Ben. Act 0 of 1915.
	4	The Howrah Suburban Municipal Police Act, 1884	Rep. by Ben. Act 4 of 1908.
	5	Calcutta Municipality (Amending Ben. Act 4 of 1876).	Rep. by Act 1 of 1903.
1885	1	The Bengal Ferries Act, 1885	Rep. in part by Act 2 of 1901. Amended by B. & O. Act 2 of 1914.

Year.	No.	Short title or subject. •	How repealed or otherwise affected by legislation.	
1885	2	Docks for Port of Calcutta	Rep. by Ben. Act 3 of 1890	
	3	The Bengal Local Self Government Act, 1885.	Amended by Act 1 (f 1903. Do. by Ben. Act 5 of 1908, Do. by Ben. Act 1 of 1914. Rep. in part by Ben. Act 1 of 1914. Amended by B. & O. Act 1 of 1916.	
1886	The Village Chaukidari (Am ment) Act, 1886.		Rep in part by Act 5 of 1897. Ditto by Act 1 of 1903. Amended by Ben. Act 1 of 1892.	
	. 2	The Calcutta and Suburban Police (Amending) Act, 1886.	Rep. in part by Act 1 of 1903. Ditto by Ben. Act 3 of 1910.	
	3	The Bengal Municipal (Amend- ment) Act, 1886	Rep in part by Act 1 of 1903. Ditto (in Bengal) by Ben. Act 2 of 1888. Ditto by Act 1 of 1903.	
1887	1	The Calcutta Survey Act, 1887	Rep. in part by Act 1 of 1903.	
	2	The Bengal Vaccination (Amend- ment) Act, 1887.	Rep. in part and Amended by Act 5 of 1897.	
	. 3	The Calcutta Port Improvement Act, Amendment Act, 1887.	Rep. by Ben. Act 3 of 1890.	
	4	The Chittagong Port Commissioners Act, 1887.	Rep. by Ben. Act 5 of 1914. Rep. by B. & O Act 1 of 1914. Amended by Act 1 of 1903. Do. by Ben. Act 4 of 1903	
	5	The Chota Nagpur Police Act,	Rep. in part by Act 1 of 1903.	
1888	1	1887. Municipalities (Amending Ben. Act 3 of 1884).	Superseded by Ben. Act 4 of 1894, s. 4.	
	2	The Calcutta Municipal Consolidation Act, 1888.	Rep by Ben. Act 3 of 1899. Rep by Act 1 of 1903.	
	3	Howrah Bridge Act, Amendment Act, 1888.	Rep. in part by Act 1 of 1903.	
1889		The Inland Emigrants' Health Act, 1889.	Rep. by Act 6 of 1901.	
	2	The Private Fisheries Protection Act, 1889.		
	3	Loan to Corporation of Calcutta	Rep. in part by Act 1 of 1903.	
	4	The Calcutta Burial Boards Act, 1889	Rep. by Act 1 of 1903. Amended and Rep. in part by Act 1 of 1913.	
1890	1	The Calcutta Suburban Police Su- perannuation Fund Act, 1890.	Rep. in part by Act 1 of 1903. Rep. by Ben. Act 6 of 1905.	

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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	
1890	۵	The Bengal Vaccination (Amendment) Act, 1890.	Amended by Act 1 of 1903. Rep. in part by Act 1 of 1903.	
	3	The Calcutta Port Act, 1.90	Rep in part and amended by Ben. Act 4 of 1805 Amended by Ben. Act 2 of 1894. Ditto Ben. Act 6 of 1895. Ditto Ben. Act 2 of 18,8. Ditto Ben. Act 4 of 1905. Ditto Act 1 of 1903. Ditto Ben. Act 2 of 1907. Ditto Ben. Act 1 of 1912. Ditto Ben. Act 1 of 1915. Ditto Ben. Act 5 of 1915.	
1891	1	Public Demands Recovery (Amending Ben. Act 7 of 1880)	Rep by Ben. Act 1 of 1895.	
	2	The Calcutta Hackney Carriage Act, 1891.	Rep in part by Act 1 of 1903.	
1892	1	The Bengal Village Chaukidari (Amendment) Art, 1892.	Rep in part by Act 5 of 1897 Ditto by Act 1 of 1903.	
1893	I	The Licensed Warehouse and Fire Brigrade Act, 1893	Rep. in part by Act 1 of 1923. Amanded by Ben. Act 1 of 1899.	
1894	I	Licensed Warehouse and Fire Brigade (Amending Ben. Act 1	Rep. in part by Act 1 of 1913.	
	2	1893). The Calcutta Port Amendment Act, 1894.	Rep. in part by Act 1 of 1903.	
	3	The Calcutta Tramways Act, 1894	Amended by Ben Act 4 of 1910. Rep. in part by Act 1 of 1903.	
	4	Municipalities (Amending Ben. Act 3 of 1884).	Ditto by Ben. Act 6 of, 1891. Ditto Ditto 2 of 1096. Amended by Ben Act 1 of 1903.	
	5 Tenancy (Amending Act 8 of 1885)		Rep. by Ben Act 3 of 1898.	
i	6	Muncipalities (Amending Ben Act 4 of 1894.)	Rep. by Act 1 of 1903.	
1895	t	The Public Demands Recovery Act, 1895.	Rep. in part and amended by Ben. Act 1 of 1897. Rep. in part by Act 4 of 1907. Rep. in part by E B & A. Act 1 of 1916. Rep. by Ben. Act 3 of 1913. Rep. by B. & O. Act 4 of 1914.	
	2	The Calcutta Suburban Police Amendment Act, 1895.	Rep. in part by Act 1 of 1903. Ditto by Ben. Act 3 of 1910.	
	3	The Land Records Maintenance Act, 1895.		

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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.
1895	4	The Calcutta Port Amendment Act, 1895.	Rep in part by Act 1 of 1903.
	5	The Lepers Act, 1895	Rep by Act 3 of 1898.
	6	The Calcutta Port Amendment Act, 1895.	Rep. in part by Act 1 of 1903.
	7	The Bhutan Duars Repealing Act, 1895.	Rep. by Act 1 of 1903.
	8	The Bengal Sanitary Drainage Act.	Rep. in part by Act 1 of 1903.
	9	The Calcutta Electric Lighting Act, 1895.	Amended by Ben Act 1 of 1902. Rep. in part by Act 1 of 1903.
1896	1	The Protection of Muhammadan Pilgrims Act, 1896.	
	2	The Bengal Municipal Amend- ment Act, 1896.	Rep. in part by Act 1 of 1903.
ל פ8 ז	1	The Bengal Rec. very (Amend-ment) Act, 1897.	Rep. in part by Act 1 of 1903. Rep. by Ben. Act 3 of 1913.
	•		Rep. by B. & O. Act 4 of 1914.
	2	The Murray Trust Act, 1837	
	3	The Bengal Rain-gambling Act, 1897.	
	4	The Chota Nagpur Commutation Act, 1897.	Rep. in part by Act 1 of 1903. Amended by Ben. Act 5 of 1903.
	5	The Estates Partition Act, 1897	Amended by B. & O. Act 3 of 1916
1898"	1	The Calcutta Police Act, 1898	Rep. in part by Act 1 of 1903
	2	The Calcutta Port (Amendment) Act, 1898.	Rep. in part by Act 1 of 1903.
	3	The Bengal Tenancy (Amend-ment) Act.	Rep. in part by Act 1 of 1903. Rep. by B. & O. Act 2 of 1913.
1899	1	The Bengal General Clauses Act, 1899.	Rep. in part by Act 1 of 1903. Amended by Act 1 of 1903. Amended and Extended by B-1
	2	The Bengal Civil Courts (Amendment) Act, 1899.	Act 1 of 1914.
	3	The Calcutta Municipal Act	Rep. in part by Act 1 of 1903. Amended by Ben. Act 4 of 1914.
.1900	1	The Darjeeling Municipal Act,	Rep in part by Act 1 of 1903. Ditto by Ben. Act 4 of 1914. Amended by Act 1 of 1914 B. C.

Year.	Year. No. Short title or subject.		How repealed or otherwise affected by legislation.	
1900	2	The Calcutta Municipal Act, 1900.	Rep. by Act 1 of 1903.	
	3	The Bengal Cruelty to Animals Act, 1900.		
	4	The Calcutta Tramways (Electric) Act, 1900.		
1902	1	Howrah Bridge Electric Lighting Act, 1902.	Rep. by Act 3 of 1903.	
	. 2	Bengal Drainage (Amendment) Act, 1902.		
1903	1	Bengal Tenancy Validation and Amendment.		
	2	The Bengal Excise and Licensing Amendment.	Rep. by Ben. Act 5 of 1909. Rep. by E. B. & Assam Act 1 of 1910.	
	3	Bengal Motor Car and Cycles	Rep. by Act 8 of 1914.	
	4	Chittagong Port Commissioners (Amendment).	Rep. by Ben. Act 4 of 1914.	
	5	Chota Nagpur Tenancy (Amend- ment) Act.	Rep. by Act 6 of 1908.	
1904	I	Bengal Tramways (Amendment).		
	2	Bengal Public Parks.		
	3	Bengal Settled Estates	Rep. in part by Act 1 of 1914.	
1905	1	The Sunderbans Act, 1905.	•	
	2	The Bengal Repealing Act, 1905.		
	3	The Bengal Smoke Nuisance Act, 1905.	Amended by Ben. Act 1 of 1916.	
	4	The Calcutta Port (Amendment) Act, 1905.		
	5	The Chota Nagpur Tenancy (Amendment) Act, 1905.		
	6	The Calcutta Suburban Police (Superannuation Fund) Act.	•	
1906	1	The Bengal Court of Wards (Amendment) Act, 1906.		
	2	Bengal Land Registration (Amendment) Act, 1916.	Rep. by Act 1 of 1914.	

Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	
1906	3	The Bengal Disorderly Houses Act, 1906.	Rep. in part by Ben. Act 3 of 1907. Rep. (whole) by Ben. Act 1 of 1914 Extended by Ben. Act 1 of 1914.	
	4	The Sambalpur Civil Courts Act, 1906.		
1907	T	Bengal Tenancy (Amendment) Act.	Rep. by B. & O. Act 2 of 1913.	
	2	Calcutta Port (Amendment) Act.		
	, 3	Calcutta and Suburban Police (Amendment) Act	Rep. in part by Ben. Act 3 of 1910.	
1908	1	Calcutta Port (Amendment).		
	2	Sambalpur (Evidence) Act.		
	3	Puri Lodging-house Amendment Act.		
,	4	Bengal Repealing Act.		
	5	Bengal Local Self-Government Act (Amendment).	Extended by Ben. Act 1 of 1914.	
	6	Chota Nagpur Tenancy Act	Amended by B. & O. Act 4 of 1914.	
1909	1	Indian Lunatic Asylum Amend- ment Act.	Rep. by Ben. 1 of 1914	
	2	Bengal Court of Wards Amend- ment Act.	Extended by Ben. Act 1 of 1914. Repealed by Ben. Act 1 of 1914	
	3	Chota Nagpur Encumbered Estates Amendment Act.		
	4	Sambalpur Delegation Act		
	5	Bengal Excise Act	Amended by Act 7 of 1914 B. C. Rep. in part by B. & O. Act 3 of 1915.	
1910		Calcutta Port Amendment Act.	,	
	2	Bengal Municapal Amendment Valydation Act	Extended by Ben. Act 1 of 1914.	
	3	Calcutta and Suburban Police Amendment Act.		
	4	Bengal Cess Amendment Act.		
1911		Sambalput Repealing and Amend- ment Act.		

Year.	No. Short title or subject.		How repealed or otherwise affected by legislation.	
1911	2	Bengal Local Self-Government Act.	٠	
			Extended by Ben. Act t of 1914 Amended by Ben. Act 3 of 1915.	
1912		The Calcutta Port (Amendment)		
1	2	The Bengal Mining Settlement Act.		
1913	1	Calcutta Burial Boards (Amend-ment) Act.		
١	2	Bengal Board of Revenue Act.		
	3	Bengal Public Demands Recovery Act.	Amended by Ben. Act 1 of 1918	
	4	Bengal Public Gambling (Amendment) Act.		
1914	1	The Bengal Laws Act.		
	2	Bengal Municipal (Sanitary officers) Act.		
	3	The Doveton Trust Act.		
	4	The Calcutta Municipal (Loans) Act.		
	5	The Chittagong Port Act	Amended by Ben. Act 5 of 1918.	
•	6	The Bengal Medical Act.		
	7	Bengal Excise (Amendment) Act.		
1915	1	Calcutta Port (Amendment) Act.		
	2	Bengal Steam boiler and Prime- movers (Amendment) Act.		
	3	Calcutta Improvement (Amend-ment) Act.		
	4	Bengal Embankment (Sunderbans) Act.		
	5	Bengal Decentralization Act.		
1916	1	The Bengal Smoke Nuisance (Amendment) Act.		

CHRONOLOGICAL TABLE OF BENGAL ACTS. . xxvii

Year.	No.	Short title or subject. •	How repealed or otherwise affected by legislation.
1917	1	The Galcutta Municipal (Amendament) Act.	1
1918	1	The Bengal Public Demands Re- covery Act.	
	2	The Bengal Tenancy (Amendment) Act.	
	3	The Bengal (Aliens) Disqualifica- tion Act	
	, 4	The Serampore College Act.	
	5	The Chittagong Port (Amend- ment) Act.	

265. Within such limits as the Commissioners may direct, Conditions for keeping no person shall keep any pig-sty adjoining pig-sty.

Pig-sty.

or near a road unless it is shut out therefrom by a sufficient wall or fence, and in no place within such limits shall more than ten pigs, or more than twenty sheep or goats, be kept without the written permission of the Commissioners.

Act. 8

The Commissioners may charge an annual fee not exceeding two rupees for such permission, and may impose such conditions in respect of such permission as they may think necessary.

Penalties.

- 266. Any person constructing a privy within a municipality, Failing to shut out privy and failing to have it shut out from view, as in section 225 required, shall be liable to a fine not exceeding twenty rupees.
- 267. Whoever erects a hut, or any range or block of huts

 Erecting huts without or sheds, or adds to any hut or shed, or to
 notice.

 any range or block already existing, contrary to the provisions of section 243; and whoever fails to remove
 such hut, block of huts, or shed, when required by the Commissioners to do so, shall be liable to a fine not exceeding twenty
 rupees for every such offence, and to a further fine, not exceeding
 five rupees, for each day during which the offence is continued
 after he has been convicted of such offence.

NOTES.

- S. 267 shall be deemed to have been entirely repealed, so far as this Act applies, to Darjeeling only.—See s. 23 and Sch. E of the Darjeeling Municipal Act (Ben. Act 1. of 1900).
- So 243 of the Bengal Municipal Act forbids the erection of a hut within a Municipality without a month's notice to the Municipal Commissioners. When, therefore, a person was prosecuted under s. 267 of the Act for having erected a hut without such a notice, and it was found that the hut was so erected: Held, that upon the facts found the accused ought to have been convicted Held, further, s. 267 of the Act provides for two distinct classes of offences, namely, (1) erecting a hut without a month's notice to the Commissioners, and (2) failing to remove a hut, erected without such notice, when required to do so, the latter only being an offence of a continuous mature, liable to be punished with a daily fine. Notice of removal of the hut is not a condition precedent to a conviction for the first class of offences mentioned.—CHAIR-MAN, HOWRAH MUNICIPALIT. v. GOLAFI BRWA, 10 C. L. J. 16.
- 268. If any owner, occupier, or farmer of any place for the Disobeying requisition sale of meat, poultry, fish, vegetables, or of under section 249. any slaughter-house, within the limits of a municipality, after notice in writing given to him by the Commissioners that such place or slaughter-house is defective in any of the particulars specified in section 249, and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a fine not exceeding twenty

Act 8.

rupees for every day during which such default is continued after the expiration of the period mentioned in such notice.

- 269. If any person, in order to provide for the passage of Cutting up road for pas water, or for any other purpose, shall, without the consent of the Commissioners, dig or cut up any public road or thoroughfare, he shall be liable to a fine not exceeding twenty-five rupees, and shall in addition be bound to pay the expenses incurred in filling up any excavation made by him or on his behalf in any such public road or thoroughfare.
 - 270. Whoever, within a municipality,—
- (1) without the permission of the Commissioners, throws or Throwing rubbish into puts, or permits his servants to throw or sewers.

 put, any sewage or offensive matter on to any road, or who throws or puts, or permits his servants to throw or put, any earth, rubbish, sewage, or offensive matter into any sewer or drain belonging to the Commissioners, or into any drain communicating therewith; or
- (2) causes or allows the water of any sink, wer, or cessAllowing water of any pool, or any other offensive matter belongsewer, &c., to lun on any ing to him, or being on his land, to run,
 road. drain, or be thrown or put upon any road,
 or causes or allows any offensive matter to run, drain, or be thrown
 into a surface-drain near any road;

Constructing latrine, &c, in contravention of sections 230 and 231.

- (3) constructs a latrine, urinal, cesspool, house-drain, or privy, in contravention of the provisions of section 230 or 231; or
- (4) without the written permission of the Commissioners, digs or makes or causes or suffers to be dug or made any excavation, cess-pool, tank, or pit in contravention of the provisions of section 232; or
- (5)* makes or repairs a roof or wall with grass, leaves, mats,

 Making roof or wall of or other inflammable material in contravengrass, &c. tion of the provisions of section 236,

shall be liable, for every such offence, to a fine not exceeding twenty-five rupees.

NOTES.

In application of this Act to Darjeeling, cls. (4) and (5) of s. 270 shall be deemed not to have been embodied in the section at all. -See s. 23 and Sch. E of the Darjeeling Municipal Act (Ben. Act I. of 1900).

Continuous offence.—The offence under sub-s. 3 of s. 270 of the Act, vis., construction of latrines in contravention of the provisions of ss. 230 and 231 of the Act, is not a continuous one—Bidhu v. The Asansole Municipality, 6 C. W. N. 107.

To s. 270, cl. (5) and the word 'or" at the end of cl. (4) have been added by Ben. Act IV. of 1894, s. 78.

271.* Whoever, within a Municipality, fails to comply with Disobeying requisition a requisition, issued by the Commissioners under section 224, 225, 227, under the provisions of section "224," 225, 230, 231, cr 238. "227," 230, 231 or 238, shall be liable, for every such offence, to a fine not exceeding twenty-five rupees, and to a further fine, not exceeding five rupees, for every day during which he shall continue to make such default after service on him of such requisition.

1884. Act 3.

NOTE.

In application of s. 271 to Darjeeling, the figures "227" and "238" therein have been repealed.—See s. 23 and Sch. E of the Darjeeling Municipal Act (Ben. Act I. of 1900).

272. Whoever within a municipality,—

- Altering, &c., drains leading to public sewers.

 drain leading into any of the sewers or drains vested in the Commissioners by this Act; or
- (2) constructs any branch drain, privy, or cess-pool contrary
 Making drains contrary
 to the directions and regulations of the
 Commissioners, or contrary to the provisions of the Commissioners, constructs, rebuilds, or unstops any drain,
 privy, or cess-pool, which has been ordered by them to be demolished or stopped up, or not to be made,

shall be liable, for every such offence, to a fine not exceeding fifty rupees.

NOTES.

So much of s. 272, cl. (2), as relates to drains has been repeated by s. 23 and Sch. E of the Darjeeling Municipal Act (Ben. Act I. of 1900), so far the section applies to Darjeeling.

The following ss. (272A to 272E) have been inserted after s. 272 of this Act in its application to Darjeeling by s. 19 of the Darjeeling Municipal Act (Ben. Act I. of 1900):—

Fine for certain offences. "272A. Whoever-

- (a) contravenes any provision of any of the clauses of this Act mentioned in the first column of the following table, or
- (b) fails to comply with any requisition lawfully made upon him, or any direction lawfully given to him, under any of the said clauses,

shall be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the following table, headed 'Subject,' are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are inserted merely as references to the subject of the clause, the number of which is given in the first column:—

^{*} In s 271, the figures "224" and "227" have been inserted, and the italicized figures and word have been substituted for the word and figures "or 231," by Ben. Act. IV. of 1894, s. 79.

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	Clauses.		Subject.	Fine which may be imposed.
Section	201D		Requisition to re-construct, &c, a private road or bridge.	Five hundred rupees.
. 11	201E		Requision to provide and maintain, or to enlarge, water-way.	Two hundred and fifty rupees,
1)	201 F		Construction, &c, of private road or bridge.	Two hundred and fifty rupees.
ıı	201G		Requisition to close a private road	Two hundred and fifty rupees.
11	207A, claus	e (b)	Requisition to remove débris falling upon or into a private road or drain.	Fifty rupees.
91	210B	•••	Requisition to take down a building, &c., where buildings, &c., threaten the stability of other immoveable property.	Five hundred rupees.
	210C	•••	Requisition to take down a building, &c., where hillside or bank threatens the safety of buildings.	Five hundred rupees.
* **	224C	•••	Requisition to reconstruct, &c., a private drain.	Two hundred and fifty rupees.
,,	227		Requisition to provide a drain	Two hundred and fifty rupees.
n	229 A	•••	Construction, &c., of private drain	Two hundred and fifty rupees.
Ý	236, sub- tion	scc.	Construction of external roofs or walls with inflammable material.	Twenty-five rupees.
11	236, sub tion	sec.	Requisition to remove or alter external wall or roof made of inflammable material.	
"	244E, sub tio	· sec- n (1)	Sending written notice to Commissioners before commencing building work.	Fifty rupees.
"	244F	•••	Sending written notice to Commis- sioners after completion of building work,	
**	244Q, sub tic	• sec- on (1)		Twenty-five rupces.
11	244T, sub tio	- sec- on (1)		Five hundred rupees.

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			. 3
	Clauses,	Subject.	Fine which may be imposed.
Section	244V, sub - sec- tion (1)	Prohibition of occupation of unsafe building.	Two hundred and fifty rupees in the case of a masonry or framed building, and twenty-five rupees in the case of a hut.
"	244V, sub · sec- tion (2)	Prohibition of occupation of insanitary building.	Fifty rupees,
."	244X, sub - sec- tion (2)	Using building declared unfit for human habitation.	Fifty rupees.
"	244Y, sub - sec- tion (1)	Requisition to abate overcrowding in building or room.	Fifty rupees.
91	244Y, sub - sec- tion (4)	Requisition to vacate over crowded building or room.	Ten rupees.
"	244Z, sub - sec- tion (1)	Requisition to provide, repair, &c., roof-gutters and down-pipes or masonry platforms.	One hundred rupees.
,,	248A ₀	Requisition to construct revetment, &c.	Five hundred rupees.
17	248E	Revetment, turfing, and sloping	Two hundred and fifty rupees.

[&]quot;272B. Whoever, after having been convicted of failing to comply with any Continuing fine for certain requisition lawfully made upon him, or any direction offences. lawfully given to him, under any of the clauses of this Act mentioned in the first column of the following table,

continues to neglect to comply with the said requisition or direction,

shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the following table, headed 'Subject,' are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are inserted merely as references to the subject of the clause, the number of which is given in the first column:

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	1	•	. 2	3
	Clause	s. ·	Subject.	Daily fine which may be imposed.
Section	201 D	•••	Requisition to reconstruct, &c., a private road or bridge.	One hundred rupees.
" -	201E	•••	Requisition to provide and maintain, or to enlarge, waterway.	Fifty rupees.
"	201G	•••	Requisition to close a private road	Fifty rupees.
**	207A,	clause (b)	Requisition to remove dibris falling upon or into a private road or drain.	Ten rupees.
21	210B	•••	Requisition to take down a building. &c. where buildings, &c., threaten the stability of other immoveable property.	One hundred rupees.
11	210C	••.	Requisition to take down building &c, where hillside or bank threatens the safety of buildings.	One hundred rupees.
"	224C		Requisition to reconstruct, &c., a private drain.	Fifty rupees.
"	227		Requisition to provide a drain	Fifty rupees.
11	244V,	sub-sec- tion (1)	Prohibition of occupation of unsafe building.	Fifty rupees in the case of a masonry or framed building, and five rupees in the case of a hut.
1)	244V,	sub-sec- tion (2)	Prohibition of occupation of insanitary building.	Ten supees.

Fine for unlawfully commencing, carrying on, or completing work.

- "272C. If any work referred to in s. 201C, sub s. (1), or s. 224B, sub s. (1), or the erection, re-erection, or material alteration of any building—
- (a) is commenced without obtaining the permission of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under s. 351D) without waiting until the Commissioners have received the orders of the Engineer, or in contravention of any orders passed by him, or
- (b) is carried on or completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or
- (c) is carried on or completed after such permission has been withdrawn, or
- (d) is carried on or completed in breach of any provision contained in this Act, or in any rules or bye-laws made hereunder, or of any condition, modification, direction, or requisition lawfully imposed, made, or given under this Act or such rules or bye-laws, or,

if any alterations required by any notice issued under s. 244H be not duly made,

the owner shall be liable to fine which may extend, in the case of a road, bridge, drain, or masonry or framed building, to five hundred rupees, and, in the case of a hut, to fifty rupees, and

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of further fine which may extend, in the case of a road, bridge, drain, or masonry or framed building to one hundred rupees, and, in the case of a hut, to ten rupees, for each day after conviction during which the offence is continued.

Fine for disobedience of direction for demolition or alteration where work unlawfully commenced, carried on, or completed.

"272D. If any person to whom a direction to demolish or alter work is given under cl. (i) of s. 244S fails to obey the same, he shall be liable

to fine which may extend, in the case of a road, bridge, drain, or masonry or framed building, to five hundred rupees, and, in the case of a hut, to fifty rupees and

to further fine which may extend, in the case of a road, bridge, drain, or masonry or framed building, to one hundred rupees, and, in the case of a hut, to ten rupees, for each day after conviction during which he so fails.

"272E. When a building has been erected, re-erected, or materially altered under Fine for using building for this Act without any statement having been made under carrying or experience that it was intended to use the building or any part thereof for any of the purposes specified in s 261, or as a stable, cattle shed, or cow-house, then any person using the building or any part thereof for any of those purposes shall be liable,—

- (a) in the case of a masonry or framed building, to fine which may extend to two hundred rupees, and to further fine which may extend to twenty rupees for each day after conviction during which he continues such use, and,
- (b) in the case of a hut, to fine which may extend to twenty rupees, and to further fire which may extend to five rupees for each day after conviction during which he continues such use."

273.* Whoever, in a municipality,-

- (1) begins to build or to take down, or alter or repair, any Offence under section 235, house contrary to the provisions of section 238, 241, or 242.

 235, "238," or 241, or lets a house for occupation contrary to the provisions of section 242; or, without written permission, erects or sets up any hoard, scaffolding, or fence whatsoever; or who, being permitted, fails to put up such fence or hoard, or to continue the same standing, or to maintain the same in good condition; or who does not, while such hoard or fence is standing, keep the same sufficiently lighted during the night, or who does not remove the same within eight days, when directed by the Commissioners; or,
- (2) without a license, uses any place for any of the purposes
 Offence under section 26; specified in section 261 or section 263, or
 262A, or 263 "uses any place as a kiln in contravention
 of the provisions of section 262A; or,"

or 263.

(3) being a holder of a license under section 261 or section 263, breaks any condition of such license; or,

(4) after the issue of an order under section 264, keeps horses
Offence under section or cattle exceeding ten in number in contravention of such order; or

^{*} In s. 273, cl. (?), the figures quoted have been inserted, and, to cl. (2), the words quoted have been added, by Ben. Act IV. of 1894, s. 80.

1884. Act 8. Offence under section 265.

(5) keeps any pig-sty, pigs, sheep, or goats contrary to the provisions of section 265,

shall be liable, for every such offence, to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for every day during which the offence is continued after he has been convicted of such offence.

Notes.

The figures and words, "238 or 241, or lets a house for occupation contrary to the provisions of s. 242," in s. 273, cl. (1), have been repealed by s. 23 and Sch. E of the Darjeeling Municipal Act (Ben. Act I. of 1900), so far as the section applies to Darjeeling.

Clause (1).—In the case of Chandra Kumar v Ganesh Das, 25 C. 419, Ganesh Das applied to the Municipal Commissioners for permission to erect a hut. The Vice chairman enquired into the case, and as the result of his enquiry a notice was issued on Ganesh Das, directing him not to erect the house and to demolish it, if already built. The notice was not communicated to him until after the building had been completed. The question raised in that case was whether the provisions of ss. 233 and 273 (1) of the Act had been fulfilled, or in other words, whether the accused could be said to have commenced to erect the house "in contravention of a legal order." Their, Lordships observed "So far as we understand the Act, the accused was not bound to wait for six weeks before getting a reply to his notice, it is true that the Commissioners are allowed that period within which to come to their decision; but the Act is silent as to the counter-obligation alleged against the accused, whatever the intention of the framers of the Act may have been."

Clause (2).—Where the petitioner was convicted under cl. (2) of s. 273 of the Bengal Municipal Act for having used without a license certain premiees within the Cuttack Municipality for the purpose of storing hides in contravention of s. 261 of the Act, but no resolution passed by the Commissioners at a meeting fixing the local limits within which licenses should be required under s. 261 for offensive or dangerous trades was on the record, nor was there any secondary evidence of any such resolution: Held that the conviction must best aside, as the prosecution had failed to prove the existence of the resolution, and if from other circumstances it were assumed that such a resolution was passed, the prosecution has failed to prove its purport in the manner required by law.—Syed Mokram v. The Cuttack Municipality, 17 C. W. N. 531.

- 274. Whoever, within a municipality, after the expiration of Burying or burning the period mentioned in section 257, knovecorpse on unregistered ingly buries or burns, or causes, procures or suffers to be buried or burned, any corpse in or on any ground not registered as a burial or burning ground, shall be liable to a fine not exceeding one hundred rupees.
- 275. Whoever, within a municipality, uses any such place as is mentioned in section 252, without the same being registered, shall be liable to a fine not exceeding one hundred rupees, and to a further fine, not exceeding twenty rupees, for each day during which the offence is continued after he has been convicted of such offence.
- 276. Whoever, within a municipality, not being the holder of Uncertificated persons dissuch certificate as is mentioned in the second clause of section 252, shall compound, mix, prepare, or sell any drugs in any registered shop or place, shall

on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees for each offence; and any owner, occupier, or keeper of any such shop or place, who shall employ any such uncertified person to perform any one or more of such duties, shall, on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and shall be further liable, at the discretion of such Magistrate, to forfeit his license:

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Provided that this section shall not come into operation until after the expiration of a period of six months from the publication of a notification to that effect in the Calcutta Gazette by the Local Government.

NOTE.

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by s. 276 on the Local Government may not be delegated.—See s 28 and Sch. G of the Darjeeling Municipal Act (Ben. Act I. of 1900).

- 277. Whoever, within a municipality after the expiration of Disobeving notice under the time specified in a notice issued by the section 262 Commissioners, under the provisions of section 252, uses, or permits to be used, the place specified in such notice in such a manner as to be a nuisance to the neighbourhood shall be liable to a fine not exceeding two hundred rupees, and to a further fine, not exceeding forty rupees, for each day during which the offence is continued after he has been convicted of such, offence.
- 278. Any Magistrate before whom any person is convicted of Suspension or revocation any offence contrary to the provisions of of license, &c this Act relating to the use of any place for a purpose for which a license is required, or of the non-observance of any of the bye-laws relating thereto made under this Act, in addition to the fine which may be imposed on such person under this Act, may suspend, for any period not exceeding two months, any such license.

And the Commissioners; upon the conviction of any person for a second or other subsequent like offence, may cancel his license.

PART VII.

NOTE.

by this Part on the Local Government may not be delegated.—See s. 28 and Sch. G. of the Darjeeling Municipal Act (Ben. Act 1. of 1900).

Of Water-supply.

279.* (1) In any municipality to which the provisions of this

Imposition of water-rate.

Part shall be extended in the manner prescribed by section 222, it shall be lawful for

S. 279 has been substituted for the original by Ben. Act IV. of 1894, s. 81.

the Commissioners at a meeting to impose a water-rate not exceeding seven-and-a-half per centum on the annual value of holdings when the houses and lands are situated in any road supplied with water, and not exceeding six per centum when the houses and lands are situated in any road not so supplied.

- (1a)* With the sanction of the Local Government, the amount of the water-rate imposed under this section may vary with the distance of houses or lands from the nearest stand-pipe or other source of water-supply, and the amount may be higher in the case of premises to which communication-pipes are attached than in the case of other premises.
- (2) In fixing the amount or amounts of the rate, regard shall be had to the principle that the total nett proceeds of the tax, together with the estimated income from payments for water supplied from the works under special contract or otherwise, shall not exceed the amount required for carrying out the purposes of this Part.
- (3) The water rate shall be paid by the occupiers of the holdings by quarterly instalments in advance:

Provided that such water-rate shall not be levied upon-

- (a) any house or land no part of which is within a radius to be fixed by the Local Government for each municipality from the nearest stand-pipe or other supply of water available to the public; or
- (b) any land used exclusively for purposes of agriculture;
- (c) any holding consisting only of tanks:

Provided, also, that nothing in this section shall prevent the Commissioners from making any special arrangement consistent with this Act with persons residing beyond the radius fixed by the Local Government.

Valuation, assessment mined by the Commissioners for the imposiand collection of water-rate. tion of the rate on holdings under the provisions of Part IV. of this Act, or if no such rate on holdings be imposed, the annual value shall be ascertained and determined in the manner provided in that Part. And the provisions of sections 96 to 109 (both inclusive) and 112 to 130 (both inclusive), shall, mutatis mutandis, and so far as they are not inconsistent with the provisions of this Part, be applicable to the assessment and collection of the water-rate.

end of cl. (b) just preceding have been inserted by Ben, Act 11 of 1896, s. 14.

^{*} In s. 279 (as substituted above for the original), sub-s. (1a) has been inserted by Ben. Act II of 1896, s. 13 (1).

[†] In s. 279 (2), the italicized words have been inserted by Ben. Act II. of 1896, s 13 (2) ‡ In s. 279 (1st proviso), the italicized cl. (c) and the italicized word "or" at the

Occupier paying waterrate may deduct one fourth
from rent due to owner.

water-rate shall have been recovered, is not the owner of
the house or land in respect of which the
water-rate shall have been assessed, such person may recover from
the owner one-fourth of the water-rate so paid or recovered, and
may deduct the same from the rent payable by him to such owner.

282. Whenever any house or land has been unoccupied when house is unoccu. during an entire quarter, the owner of the pied, owner to pay one said house or land shall pay to the Commissioners one-fourth of the sum which would have been payable as water-rate by the occupier if such house or land had been occupied.

• The sum payable by the owner under this section shall be deemed to be due on the first day of the quarter following that in respect of which the said sum is payable.

Refund of water-rate shall have been paid in respect of any house or land shall, during the quarter for which such instalment shall have been paid, cease to be occupied, the person who shall have paid such water-rate shall be entitled to be repaid by the Commissioners three-fourths of such sum as shall bear to the amount paid by him the same proportion which the residue of the quarter bears to the entire quarter:

Provided that notice shall have been given in writing to the Commissioners of such house or land being unoccupied, and that the application for refund be made within six months next after the date on which the house or land ceased to be occupied.

The date on which the said notice is delivered at the office of the Commissioners shall, for the purposes of this section, be deemed to be the date on which the house or land ceased to be occupied.

Rate payable on house unoccupied shall begin to be occupied during being re-occupied.

any quarter, there shall be forthwith payable by the occupier is respect of such house or land a sum calculated at one-fourth of the rate that would have been payable if the house or land had been occupied during the entire quarter for the period during which the house or land was not occupied, and the full rate for the residue of the quarter,

And such occupier shall be entitled to deduct from the rent, or otherwise recover from the owner, one-fourth of the water-rate that would have been payable if the house or land had been occupied during the entire quarter.

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- 285. Whenever any person holding any house or land from
 Person subletting to several different tenants to be deemed occupier.

 the owner thereof has sublet the same in severalty to two or more persons, the person holding from the owner shall, for the purposes of this Part, be deemed to be the occupier of such house or land.
- 286. The provisions of sections 312, 313, and 314 shall be Owner to pay water-rate applicable to this Part, provided that the in certain other cases. owner shall not be entitled to recover from any occupying tenant more than threefourths of the water-rate that would, but for this proviso, be recoverable by him under the said sections.
- 287. In any municipality to which the provisions of this Part The Commissioners to shall be extended, the Commissioners shall provide water supply. provide a supply of water within the limits of the municipality; and for this purpose it shall be lawful for them to cause such mains and pipes to be laid, and such tanks, reservoirs, or other works to be made and constructed as shall be necessary for the supply of water in the chief public streets; and they may also erect in all such streets sufficient and convenient stand-pipes or pumps for the use of the inhabitants of the municipality for domestic purposes.
- 288. A supply of water for domestic purposes shall not inwhat are not domestic clude a supply of water for animals or for
 purposes.
 washing carriages, where such animals or
 carriages are kept for sale or hire, or a supply for any trade,
 manufacture, or business, or for watering gardens or roads, or
 for any ornamental or mechanical purpose.
- 289. The Commissioners at a meeting shall determine what Pressure at which water pressure of water shall be maintained in their service pipes and mains, and during what hours such pressure shall be continued; and any rule made under this section shall be published in such manner as the Commissioners may direct, and shall not be altered except with the sanction of the Commissioners at a meeting.
- 290.* Whenever the Commissioners deem it practicable and consistent with the maintenance of an efficient water-supply, they may, at a meating, and subject to such rules and conditions as the Local Government may make and impose, allow the owners and occupiers paying the water-rate hereinbefore mentioned to lay down communication-pipes from the service-pipes of the Commissioners, for the purpose of leading water to their premises for domestic purposes.

^{*} S. 290 has been substituted for the original by Ben. Act IV. of 1879, s. 82.

Communication pipes &c.
was be made to satisfaction of officers of the Commissioners.

Communication pipes &c.
communication pipes &c.
commissioners into any house or land, and the pipes, works, and fittings inside the house or land, must, in all cases, be executed subject to the inspection and satisfaction of the Commissioners.

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Such communication-pipes, works, and fittings may be made by the servants and workmen of the Commissioners upon such terms as may be agreed upon between the Commissioners and the person requiring the supply, or subject to such charges as may be fixed by the Commissioners; and the Commissioners may require the amount necessary for the execution of such works to be paid or deposited before such works are executed.

And such charges and expenses shall be recoverable in the same manner as the water-rate.

Power to enter premises. sioners may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land supplied with water as aforesaid in order to examine all pipes, works, and fittings connected with the supply of water, and to ascertain whether there be any waste or misuse of such water.

And, if such officer at any such time be refused admittance into such house or land for the purposes aforesaid, or be prevented from making such examination, the Commissioners may forthwith cut off the supply of water from such house or land:

Provided that nothing hereinbefore contained shall authorize an entry into any room appropriated for the zanana, or residence of women, which, by the custom of the country, is considered private, unless a notice in writing of not less than four hours he given.

When pipes are out of repair, Commissioners may land, being at any time found on examinaturn off water. In that behalf, to be out of repair to such an extent as to cause waste of water, the Commissioners may cause the water to be turned off from such house or land, after giving notice in writing of not less than twenty-four hours, and may recover from the occupier of such house or land the expense incurred for turning off the water.

294. The Commissioners may supply water* for purposes other than domestic purposes, and may, subject to such charges and rates as may

^{*}In s. 294 s the words " through a meter," repealed by Ben. Act [V. of 1894, s. 83, have here been omitted.

have been fixed by the Commissioners at a meetin g, lay down, or allow to be laid down, the necessary pipes and works of such dimensions and character as may be approved by them.

295. The Commissioners at a meeting may determine what

House holder entitled to quantity of water shall be supplied to the certain supply of water for domestic use charge, for every rupee paid to the Commissioners as water-rate on account of such house.

If the Commissioners have reason to believe that the occupier of any house consumes more water than he is entitled to as aforesaid, it shall be lawful for them to provide a water meter at their own expense, and to attach the same to the waterpipes of the said house; and any water which may be used over and above the quantity to which the occupier is entitled as aforesaid shall be paid for by him at such rate as the Commissioners at a meeting may determine.

- Commissioners may proside filtered or unfiltered water for all latrines
 and water closets, and it shall be lawful for
 them to require that all latrines and water
 closets supplied with water, filtered or unfiltered, shall be provided
 with a cistern of such size and description, as the Commissioners
 shall direct, and all such cisterns shall be put up at the cost of
 the owner of the house or land so supplied with water.
- Water may be cut off on the water-rate hereinbefore mentioned at neglect to pay the rate. the times of payment thereof, or the charge made for the said water when supplied for other than domestic purposes, the Commissioners may turn off the water from the house or land in respect of which such rate or charge is payable, and may recover the expense of turning off the water from such person:

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he may have incurred.

- Occupier in whose house plied by the Commissioners under this Part, water is wasted liable to is, from negligence or other circumstances under the control of the said occupier, wasted, or in whose house or land the pipes, works, or fittings for the supply of water, shall be found to be out of repair to such an extent as to cause waste of water, shall be liable to a fine not exceeding twenty rupees.
- 299. Any person otherwise causing waste of water supplied

 Person causing waste of by the Commissioners shall be liable to a fine not exceeding five rupees.

Commissioners at their discretion may allow person not residing within the limits of the municipality to take or be supplied with water for domestic use on such terms as the Commissioners in meeting may from time to time prescribe.

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And any person taking or causing to be taken for use, outside the limits of the municipality, water supplied by the commissioners, without the permission of the Commissioners, shall be liable to a fine not exceeding fifty rupees.

801. Before a connection for the supply of water from the Before connection an officer of the Commissioners to cause all works and pipes to cause all works and pipes sioners may cause all the works, pipes, and fittings within the said house or land to be inspected by an officer appointed by them in that behalf.

and the cost of such inspection shall be payable in advance by the person applying for such connection at such rates as the Commissioners in meeting shall from time to time direct.

And until such officer shall have certified to the Commissioners that the works, pipes, and fittings have been executed and put up in a satisfactory manner, a connection with the Commissioners' service-pipes shall not be permitted.

Connection with service-pipes of the Commissioners, as also the laying of supply-pipes under any public road or thoroughfare, shall be executed by an officer of the Commissioners.

Sometion with service-pipes of the Commissioners, as also the laying of supply-pipes under any public road or thoroughfare, shall be executed by an officer of the Commissioners authorized in that behalf, and by no other person.

And the expense of making such connection shall be payable in advance by the person applying for the same at such rates as the Commissioners in meeting shall from time to time direct.

- Obstructing or diverting or take water from any water-works belong-water. 'ing to, or under the control of, the Commissioners, or from any water or streams by which such water-works are supplied, shall be liable to a fine not exceeding one hundred rupees.
 - 304. No works for introducing a supply of water to any house

 Estimate and specifica. shall be commenced by the owner without tion of works to be sent. sending a specification and estimate of the cost thereof, to the occupier, nor by the occupier without sending such specification and estimate to the owner.

305. Except in the case of a special agreement to the contrary,

Owner to keep works in the owner of any house or land shall bear the expense of keeping all works connected with the supply of water to such house or land in substantial repair:

Provided that nothing in this section shall affect the liabilities of parties under leases executed previous to the extension of this part to the municipality in which the said house or land is situated.

- 306. All public tanks, reservoirs, cisterns, wells, aqueducts, Tanks, &c., vested in the conduits, tunnels, pipes, pumps, and other water-works, whether made, laid, or erected at the cost of the Commissioners or otherwise, and all bridges, buildings, exengines, works, materials, and things connected therewith, or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank, shall become vested in the Commissioners.
- 307. The water-rate, and all moneys collected, received or Applications of rates and recovered for or in respect of the supply of water or the execution of works, and all supply of water. Spect relating to the water-supply, shall be applied by the Commissioners in defraying the expense of making, extending, or maintaining the water works, "in the payment of such a proportionate share of the cost of collection and of general supervision as the Commissioners in meeting may from time to time direct," in paying the interest of money borrowed for the water-works, and in the liquidation of debts incurred in connection therewith, or for some other purpose connected with the supply of water.

PART VIII.

NOTE.

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by this part on the Local Government may not be delegated.—See s. 28 and Sch. G of the Darjeeling Municipal Act (Ben. Act I. of 1900).

Of Lighting with Gas.

Municipal Commissioners introduced in the 'manner provided in may submit to the Local Government a plan for lighting.

plan for lighting with gas any portion of any area situate within the municipal limits, whether so lighted already or not, such portion of the said area having been previously defined by the Commissioners.

In s. 307, the words quoted have been inserted by Ben. Act IV., of 1894, s. 84.

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ment shall cause the plan to be published for one month in the Calcutta Gasette, and the Commissioners shall publish it in the vernacular within the limits of the municipality; and after such publication, and after consideration of any objections which may be raised to it, or alterations suggested in it, the Local Government may, if satisfied that the lighting proposed in the plan is proper and sufficient, sanction such plan, or may refuse its sanction thereto or may return it to the Commissioners for alteration in certain particulars to be specified by it, and when altered may sanction it as altered. The Local Government shall cause its sanction to any plan to be notified in the Calcutta Gasette, and shall, at the same time, cause the plan sanctioned to be published in the said Gazette.

309. After notification by the Local Government in the last Lighting-rate not exceeding section mentioned, it shall be lawful for the Commissioners to impose an annual rate not exceeding three per centum of their annual value upon all holdings, situated within such portion of the said area for the purpose of defraying the whole expense of lighting:

Provided that, as regards any portion of the said area already
Proviso as to portions allighted with gas, for the future lighting of
ready lighted. which a plan shall have been sanctioned by
the Local Government under the provision of the last preceding
section, if it shall appear that the estimated proceeds of the said
rate at three per centum will not be sufficient to defray the whole
expense of such lighting, it shall be lawful for the Commissioners
to impose a rate sufficient to defray the whole expense of lighting
such portion.

310. The rate imposed under the last preceding section upon Rate payable by occu- holding shall be paid by the occupiers therepiers quarterly in advance. of by quarterly instalments in advance; but no rate shall be leviable until the lamps in the portion of the area to be lighted shall have been lighted; nor shall any rate be leviable for any quarter or portion of a quarter an eccedent to such lighting.

Valuation, assessment, mined by the Commissioners for the imposition of lightingrate.

visions of Part IV. of this Act, or if no such rate on holding be imposed, the annual value shall be ascertained and determined in the manner provided in that Part. And the provisions of sections 93 to 109 (both inclusive) and 112 to 130 (both inclusive) shall, mutatis mutandis, and so far as they are not inconsistent with the provisions of this Part, be applicable to the assessment and collection of the lighting-rate.

1884. Act 3. 812. If any holding shall be occupied by more than one tenant Power to assess owners holding severally, or shall be of less annual in certain cases. value than one hundred rupees, it shall be lawful for the Commissioners to recover the rate from the owner of such holding.

313. Whenever any rate shall be recovered from any owner of any holding under the provisions of the Owner to recover from last preceding section, it shall be lawful for the occupier rates paid by such owner, if there shall be but one occupying tenant of such entire holding, to recover from such tenant the entire amount of the rate which shall have been so paid by such owner; and if there shall be one occupying tenant of a part. of such holding, or more than one occuping tenant of such holding, then to recover from such tenant, or each of such tenants, such sum as shall bear to the entire amount of rate which may have been so recovered from such owner the same proportion as the value of the portion of such holding in the occupation of such tenant bears to the entire value of such holding, subject, however, to the provisions of the next succeeding section.

314. Every owner who, under the provision of the last preOwner may recover rate ceding section, may be entitled to recover so paid as rent. any sum from any occupying tenant of any holding, or of any portion thereof, shall have, for the recovery of such sum, all such and the same remedies, powers, rights, and authorities as if such sum were rent payable to such owner by such tenant in respect of so much of such holding as may be in the occupation of such tenant.

315. Every occupier shall be liable to the lighting-rate for the Occupier liable to the tate time of his occupation. When any person shall have been an occupier for a part only of any quarter he shall be liable only for so much of the rate for that quarter as may be proportionate to the number of days during which he shall have been an occupier.

Excess paid in advance to be refunded.

If he shall have paid the rate in advance, the amount paid in excess of the sum due under this section shall be refunded.

No such rate shall be chargeable to any person on account of No rate to be charged any unoccupied holding for the time during which it may remain unoccupied:

Provided always that, when any person ceases to be the occuNotice of cessation of pier of any holding upon which the rate has occupancy to be given within seven days. sioners notice to that effect within seven days from the date of the cessation of his occupancy. If the occupier fail to give such notice within such period, he shall be liable to the rate assessed on such holding for the whole quarter, although he may have occupied for a part only of such quarter; and in cases

to which the provisions of section 312 apply, the rate assessed on such holding for the whole quarter shall be recoverable from the owner, if such owner has failed to give notice that such holding is unoccupied, within seven days from the date on which it ceased to be occupied.

1884. Act 3.

- 316. When the name of the owner or occupier of any holding Unknown owner or oc. is not known, it shall be sufficient to designing the cupier how to be designated. nate him, in any notice served or proceeding held under this Part, as the owner or the occupier of the holding on which the rate is assessed, and without further description.
- Situation of gas pipe or of this Part to raise, sink, or otherwise alter other gas-work to be altered at the expense of the Commissioners

 of this Part to raise, sink, or otherwise alter the situation of any gas-pipe or other gas-work laid in any portion of the said area, they may, from time to time, by notice in writing, require the person to whom any such pipe or work belongs, or under whose control it may be, to cause forthwith, or as soon as conveniently may be, any such pipe or work to be raised, sunk, or otherwise altered in position, in such manner as the Commissioners may direct:

Provided that such alteration be not such as permanently to injure such pipe or work, or to prevent the gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking, or altering, and full compensation for the damage done thereby shall be paid by the Commissioners out of the Municipal Fund as well to the person to whom such pipe or work belongs as to all other persons.

318. If the person to whom any such pipe or work belongs, or in under whose control it may be, do not promake alterations, the Commissioners may cause the same to be made.

altered in such manner as the Commissioners require, the Commissioners may themselves cause such pipe or work to be raised, sunk, or altered, as they may think fit:

Provided that such works be not permanently injured thereby, or the gas prevented from flowing as freely and conveniently as before.

318A.* The lighting-rate and all the moneys collected,
- Application of rates and received, or recovered for, or in respect of,
moneys received for lighting. lighting or the execution of works, and all
fines connected therewith, or in any respect relating to lighting,
shall be applied by the Commissioners in defraying the expenses
of making, extending, or maintaining the lighting system, in the
payment of such a proportionate share of the cost of collection

^{*} S. 318A has been inserted by Ben. Act IV. of 1894, s. 85.

Act 8.

and of general supervision as the Commissioners in meeting may from time to time direct, in paying the interest of money borrowed for lighting and in the liquidation of debts incurred in connection therewith, or for some other purposes connected with lighting.

319. The provisions of this Part shall apply, so far as may be Provisions applicable to possible, to any scheme which may be adopther system of lighting. ted by the Commissioners of any municipality for lighting the munici pality under any system involving the laying of pipes or wires or other similar apparatus.

PART IX.

Of the Construction and Cleansing of Lutrines.

- 320. In any municipality to which the provisions of this Part Notice to be issued by shall have been extended in the manner prescribed by section 222, the Commissioners may issue a notice, declaring that, from a date to be specified in such notice, they will maintain an establishment for the cleansing of* private "privies and cess-pools"* within the limits of the municipality, or any part thereof; and the Commissioners shall make suitable provision accordingly.
- 321. When such provision has been made, the Commissioners Commissioners may levy fees, to be fixed on such scale, with reference to the annual value of holdings containing dwelling houses "† or privies† within the limits of the municipality or such part thereof as aforesaid as the Commissioners at a meeting may from time to time direct;

but the fee shall not exceed three rupees per annum where the valuation of the holdings amounts to, or is less than, twentyfive rupees;

and the fee on any one holding shall not exceed four hundred and eighty rupees:

Provided that, if, on the commencement of this Act, the owners or occupiers of any holding are already under engagement to pay to the Commissioners an annual sum exceeding four hundred and eighty rupees for the cleanting of their premises, such sum, or such other sum as may from time to time be agreed upon between them and the Commissioners, may be levied from them in accordance with the provisions of this Part.

NOTES.

Dwelling-house.—To "dwell" is "to live and occupy for all the purposes of life."

A house in which a person occupied rooms though he was absent occasionally on duty

† In s. 321, the words quoted have been inserted by Bon. Act IV. of 1894, s. 87, and the italicized words have been inserted by Ben. Act II. of 1896, s. 15.

^{*} In s. 320, the words, "public and," have here been omitted, being repealed, and the words quoted have been substituted for the word "latrines," by Ben Act IV. of 1854, s. 86.

might be properly described as his "dwelling house," where, however, all that was found was that a holding was used as a place of business, but the owner used the place for residence while he was in a state of unsound mind, it was not his "dwelling-house" though there was a cook-shed or cow-shed on the property, for there may be a cook-shed or a cow-shed on a property which is not a dwelling house, but merely a place of business.—Radhagobinda v. Kumarkhali Municipality, 19 C. W. N. 1027.

1884 Act 8.

Ultra vires.—The assessment and levy of latrine tax when no scale for the levy thereof has been fixed by the Commissioners at a meeting as enjoined by s. 321 of the Bengal Municipal Act would be ultra vires.—BECHU RAM v. THE CHAIRMAN CHAPRA MUNICIPALITY, 15 C. W. N. 519.

- 322.* (1) The said fee shall be payable in quarterly instalments by the occupier for the time being of the holding, or by the owner thereof if there is no occupier, or under the provisions of the next succeeding section, and shall be recoverable in the manner prescribed for the recovery of the rate on the value of holdings in this Act, and the provisions of section 110 shall be applicable.
- (2) Every instalment of the said fee shall be deemed to be due on the first day of the quarter in respect of which such instalment is payable.
- (3)† The net proceeds of the said fees, after deducting a proportionate share, to be fixed by the Commissioners in meeting of the cost of the staff employed in collecting and in supervising the collection of the fees, and in keeping and auditing the accounts thereof, shall be applied to the maintenance of the establishment referred to in section 320, and generally to carrying out the provisions of this Part.
- (4) A list of the said fees, and of the persons liable to pay the same, shall be published once in every year as prescribed in section 354:

Provided that no such fee shall be levied in respect of any shop or place of business which does not contain any privies or cess-pools, when a fee under this Part is levied from the occupier thereof in respect of his dwelling-house within the same municipality

NOTE.

Meaning of the proviso.—When the owner of the house lived in the upper storey thereof and let out eight shops in the verandah of the ground-floor, none of which were thus occupied by himself: Held, that he could not claim exemption under the proviso to s. 322, and the house including the shops was liable to be valued for the purpose of the assessment of latrine tax. The meaning of the proviso, is that when a shopkeeper lives elsewhere, and pays latrine tax for his house, he shall not be made to pay again for his shop unless the shop contains a privy or cess fool.—Bechu Ram v. The Chairman, Chapra Municipality, 15 C. W. N. 519.

323. If any homogenesis occupied in severalty by more than one person, the Commissioners may levy the said fee from the owner of such holding, may recover from occupier.

^{*} S. 322 has been substituted for the original one by Ben. Act IV. of 1894, s. 88 + Cl. (3) has been substituted for the pre-existing clause by Ben. Act II. of 1896, s. 16.

1884. Act 3. sum as shall bear to the entire amount of the fee so levied the same proportion as the value of the part of the holding in the occupation of such person bears to the entire value of such holding.

- 324. Every owner who, under the provisions of the last precedOwner may recover fees ing section, is entitled to recover any sum
 from occupier as rent. from the occupier of any part of a holding,
 shall have, for the recovery of the said sum, all such and the same
 remedies, powers, rights, and authorities as if such sum were rent
 payable to him by the occupier in respect of such portion of the
 holding as may be in his occupation.
- 325. The Commissioners at their discretion may compound, Commissioners may compound, for any period not exceeding one year, with any occupier or owner as aforesaid, of any owner of certain premises railway premises, or of any premises used for fee.

 as a factory, dockyard, workshop, coolydepôt, school, hospital, market, court-house, or other similar place, for a certain sum to be paid by such occupier or owner in lieu of such fee.
- 326. The Commissioners may, in lieu of the aforesaid fee, Commissioners may levy levy a rate per head, to be fixed by the said a rate per head.

 Commissioners at a meeting, on the number of persons living within, or habitually resorting to, any such rail-way-premises, factory, dockyard, workshop, cooly-depôt, school, hospital, market, court-house, or other similar place.
- 327. [Commissioners may reduce or remit fee.]—Repealed by Ben. Act IV. of 1894, s. 89.
 - 328. [Penalty.] Repealed by Ben. Act IV. of 1894, s. 89.
- 329. No person liable to pay a fee or rate under the provi-Exemption from prosecution under section 217. sions of this Part shall be punished wth fine for neglecting or refusing to keep his privy in a proper state under section 217, clause 3.
- 330. All servants of the Commissioners employed for the purPowers of servants of poses of this Part may, within such hours
 Commissioners. as may be fixed by the Commissioners, enter
 on any premises of which the occupier or owner is liable to pay a
 fee or rate as aforesaid, and do all things necessary for the performance of their duties under this Part.
- 331. The Commissioners at a meeting may make an order Commissioners may re-requiring all persons employed in the require nightmen to take out moval of sewage within the limits of the municipality, or any part thereof, take out licenses, and to be servants of the Commissioners for the purpose of removing sewage from premises within the said limits.

The Commissioners at a meeting may grant such licenses subject to such conditions as they may think fit; and may impose tees in respect of the same.

1884. Act 3.

Subject to the approval of the Local Government, the Commissioners may make rules to define the duties of such persons, and from time to time may alter, add to, or repeal such rules; and any breach of such rules shall subject the offender to a forfeiture of license, and to a fine not exceeding twenty rupees.

332. If the Commissioners think that any latrine, or additional or common latrine, should be provided for Commissioners may reany house or land within the limits of the quire latrine to be consmunicipality, the owners of such house or tructed, and in default may construct themselves. land shall, within fourteen days after notice given by the Commissioners, or within such longer time as the Commissioners may, for special reasons, allow, cause such latrine to be constructed in accordance with the requisition of such notice; and if such latrine is not constructed to the satisfaction of the commissioners within such period, the Commissioners may cause the same to be constructed, and the expenses thereby incurred shall be paid by the owners, and shall be recoverable as provided in section 322.

333. The Commissioners may, for the purposes of this Part, Commissioners may re. by a notice in writing, require the owner or quire list of persons in a holding.

by a notice in writing, require the owner or occupier of any holding to furnish, within a time to be specified in the notice, a list of the number of persons residing in, or habitually resorting to, such holding.

334. Whoever, being the owner or occupier of any holding, fails to furnish such list within the time specified in such notice, after being required to furnish the same by the Commissioners, shall be liable to a fine not exceeding one hundred rupees.

334A.*. The provisions of this Part shall not apply to any jail,

Exemption of jails, &c. reformatory, or lunatic asylum in which an establishment is maintained for the cleansing of privies and cess-pools therein.

PART X.

NOTE.

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by this Part on the Local Government may not be delegated.—See s. 28 and Sch. G of the Darjeeling Municipa! Act (Ben. Act I. of 1500).

^{*} S. 334A has been inserted by Ben. Act IV. of 1891, s 90.

1884. Act 3. Regulation of Markets.

335. In any municipality to which this Part shall have been Power to construct mare extended in the manner prescribed by section 222, the Commissioners at a meeting may provide land for the purpose of being used as a municipal market, and may defray the cost of providing such land and of all expenses necessary for the establishment of such market from the Municipal Fund, and may take a lease of any market;

and may charge rent, tolls, and fees for the right to expose goods for sale in such market, and for the use of shops, stalls, and standings therein.

All such rents, tolls, and fees may be recovered as arrears of tax under the provisions of sections 120 to 129 (both inclusive).

336. No place shall be deemed to be "a municipal market"

Definition of "municipal within the meaning of the last preceding section, and no place shall be deemed to be a market, to which the following sections of this Part apply, unless at least thirty shops, stalls, or standings are erected therein for the sale of goods.

337. The Commissioners at a meeting may order that, within Commissioners may prosuch limits as they may fix, no land shall be used as a market for the sale of meat, fish, butter, ghee, fruits, vegetables, and similar provisions, otherwise than under a license to be granted by the Commissioners.

NOTE.

It is entirely within the discretion of the Municipal Commissioners, under the provisions of s. 339 of the Bengal Mu icipal Act (Ben. Act III. of 1834), to grant or refuse a license for a market, and the Courts have no longer any jurisdiction to control such power, however arbitrarily exercised. Moran v. The Chairman of the Motihari Municipality (I L. R., 17 Cal. 329) approved. A landowner on whose land a market had been held for some years previous, and which land lay within the bounds of a municipality, was prosecuted under s. 344 of the Bengal Municipal Act, and convicted and fined for using such market without having obtained a license under s. 338. He alleged that he had applied for a license, and that it had not been granted him, and that the neglect to grant it was due to the fact that his market interfered with a new market established by the Municipal Commissioners, and their desire to close his market. It appeared that some time previous to the institution of the prosecution, the Municipal Commissioners at a meeting passed a resolution "that the provisions of s: 337 of the Municipal Act (Ben. Act III. of 1884) be extended to this municipality," and it was contended that by this resolution licenses became necessary to sell at any market any of the provisions mentioned in that section, and that selling ithout such license rendered the accused liable to prosecution and fine under s. 344. It appeared further, that Part X. of the Act, which includes s. 337, had been previously extended to the municipality by an order of the Government of Bengal. Held, that the resolution of the Commissioners was not an order such as is contemplated by s. 337, as it was not sufficiently precise to convey any definite meaning, and purported only to do what the Bengal Government had already done some time previously. Held, further, that the convicton and sentence must be set aside, there being no proper order under s. 337.-Queen-Empress v. Mukunda Chunder Chatterjee, I. L. R., 20 Cal 654.

Power to grant licenses an order under the last preceding section, for markets.

an order under the last preceding section, they may, at a meeting, grant a license for

the use of any land as a market for the sale of provisions as aforesaid within the municipality.

Act 8,

NOTE.

It is entirely within the discretion of the Municipal Commissioners, under the provisions of s. 339 of the Bengal Municipal Act (Ben Act III. of 1884), to grant or refuse a license for a market, and the Courts have no longer any jurisdiction to control such power, however arbitrarily exercised. Moran v. The Chairman of the Motihari Municipality (I L. R., 17 Cal. 329) approved A landowner on whose land a market had been held for some years previous, and which land lay within the bounds of a municipality, was prosecuted under s 344 of the Bengal Municipal Act, and convicted and fined for using such market without having obtained a license under s. 338. He alleged that he had applied for a license, and that it had not been granted him, and that the neglect to grant it was due to the fact that his market interfered with a new market established by the Municipal Commissioner, and their desire to close his market. It appeared that some time previous to the institution of the prosecution, the Municipal Commissioners at a meeting passed a resolution "That the provisions of s. 337 of the Launicipal Act (Ben. Act III of 1884), be extended to this municipality," and it was contended that by this resolution licenses became necessary to sell at any market any of the provisions mentioned in that section, and that selling without such license rendered the accused liable to prosecution and fine under s. 344. It appeared, further, that Part X. of the Act, which includes s. 337, had been previously extended to the municipality by an order of the Government of Bengal. Held, that the resolution of the Commissioners was not an order such as is contemplated by s. 337, as it was not sufficiently precise to convey any definite meaning, and purported only to do what the Bengal Government had already done some time previously. Held, further, that the conviction and sentence must be set aside, there being no proper order under s. 337.—QUEEN-EMPRESS v. MUKUNDA CHUNDER CHATTERJEB, I. L. R., 20 Cal. 654.

339. Every license granted under this Part shall be liable to Duration of licenses and the payment of a fee not exceeding twenty-terms on which granted. five rupees, and shall be in force until the end of the year; and the Commissioners "shall, as regards markets lawfully established at the time of the extension of this Part to the municipality, and in all other cases,"* may, grant such license, year by year, on the certificate in writing under the hand of the Chairman, annually renewed, that the land is fit to be used as a market for the sale of provisions as aforesaid.

NOTES.

The High Court has no power to compel municipalities beyond the local limits of its ordinary original civil jurisdiction to do their duty or to restrain them from doing that which it is not in their province to do. There are no words which render in obligatory on a Municipality to grant a license under s 339 of Ben. Act III. of 1884 The word "may" is s. 339 of that Act is not to be construed as "shall."—MORAN T. CHAIRMAN OF MOTHARI MUNICIPALITY, I. L. R., 17 Cal. 329.

It is entirly within the discretion of the Municipal Commissioners, under the provisions of s. 339 of the Bengal Municipal Act (Ben. Act III. of 1884), to grant and refuse a license for a market, and the Courts have no longer any jurisdiction to control such power, however arbitrarily exercised. Moran v. The Chairman of the Motihari Municipality (I. L. R., 17 Cal. 329) approved. A landowner on whose land a market had been held for some years previous, and which land lay within the bounds of a municipality, was prosecuted under s. 344 of the Bengal Municipal Act, and convicted and fined for using such market without having obtained a license under s. 338. He alleged that he had applied for a license, and that it had not been granted him, and that the neglect to grant it was due to the fact that his market interfered with a new market established by

In s 339, the words quoted have been inserted by Ben. Act IV. of 1894, s. 91.

1884. Act 8. the Municipal Commissioners, and their desire to close his market. It appeared that some time previous to the institution of the prosecution, the Municipal Commissioners at a meeting passed a resolution "that the provisions of s. 337 of the Municipal Act (Ben. Act III. of 1884), be extended to this municipality," and it was contended that by this resolution licenses became necessary to sell at any market any of the provisions mentioned in that section, and that selling without such license rendered the accused liable to prosecution and fine under s. 344. It appeared, further, the Part X, of the Act, which includes s. 337, had been previously extended to the municipality by an order of the Government of Bengal. Held, that the resolution of the Commissioners was not an order such as is contemplated by s 337, as it was not sufficiently precise to convey any definite meaning, and purported only to do what the Bengal Government had already done some time previously. Held, further, that the conviction and sentence must be set aside, there being no proper order under s. 337.—Queen-Empress v. Mukunda Chunder Chatterjee, l. L. R., 20 Cal 654.

340. The Chairman, upon the application in writing of the Chairman bound to cerowner of any land, shall grant such certifitify fit places. cate unless the land be defective for the purposes of a market in drainage, ventilation, water-supply, or proper width of paths and ways.

The owners or lessees of all land used as markets for the sale

of provisions as aforesaid at the time of the
extension of this Part to the municipality
shall be centitled to receive a license for the current year without
the certificate required by section 339, but in subsequent years the
license shall not be renewed without such certificate.

- 341. Every license under this Part shall be registered in a book to be kept for that purpose by the Commissioners in their office, in which shall be stated—
 - (a) the name and address of the owner of the land and market:
 - (b) the name and address of the lessee thereof (if any);
 - (c) the extent and boundary of the market;
 - (d) the description of articles sold therein; and
 - (e) the days on which the market will be held.

Transfers to be registered. 342. Every transfer of interest in any such market shall be registered within two months after the date of transfer.

- 343. Any market the license of which, or the transfer of in-Unregistered markets to terest in which, shall not have been duby be deemed unlicensed. registered under the two hast preceding sections, shall be deemed to be land used as a market without a license.
- 344. Whoever, being the owner or occupier of any land, wil-Penalty for using unli. fully or negligently permits the same to be used as a market for the sale of meat, fish, butter, ghee, fruits, vegetables, or similar provisions without a license under section 338, shall be liable to a fine not exceeding

two hundred rupees for every such offence, and to a further fine not exceeding forty rupees for each day during which the offence is continued after conviction of such offence.

1884. Act 3.

NOTE.

It is entirely within the discretion of the Municipal Commissioners under the provisions s. 339 of the Bengal Municipal Act (Ben. Act III. of 1884), to grant or refuse a license for a market, and the Courts have no longer any jurisdiction to control such power, however arbitrarily exercised Moran v. The Chairman of the Motihari Municipality (I. L. R., 17 Cal. 329) approved A landowner on whose land a market had been held for some years previous, and which land lay within the bounds of a municipality. was prosecuted under s. 344 of the Bengal Municipal Act, and convicted and fined for using such market without having obtained a license under s. 338. He alleged that he had applied for a license, and that it had not been granted him, and that the neglect to to grant it was due to the fact that his market interfered with a new market established by the Municipal Commissioners, and their desire to close his market. It appeared that some time previous to the institution of the prosecution, the Municipal Commissioners at a meeting passed a resolution "that the provisions of s 337 of the Municipal Act (Ben. Act III of 1884) be extended to this municipality," and it was contended that by this resolution licenses became necessary to sell at any market any of the provisions mentioned in that section, and that selling without such license rendered the accused liable to prosecution and fine under s. 344. It appeared, further, that Part X. of the Act, which includes a 337, had been previously extended to the municipality by an order of the Government of Bengal. Held, that the resolution of the Commissioners was not an order such as is contemplated by s. 337, as it was not sufficiently precise to convey any definite meaning, and purported only to do what the Bengal Government had already done some time previously. Held, further, that the conviction and sentence must be set aside, there being no proper order under s. 337.—QUEEN EMPRESS v. MUKUNDA CHUNDER CHATTERJEE, I. L. R., 20 Cal. 654.

Power to close unlicensed may order any land, in respect of which a places. conviction shall have been obtained under the last preceding section, to be closed as a market-place, and thereupon may take order to prevent such land being so used; and every person who shall sell, or expose for sale, meat, fish, butter, ghee, fruits vegetables, or similar provisions on any land which shall have been so closed, shall be liable, for every such offence, to a fine not exceeding ten rupees.

NOTE.

It is necessary for a conviction under this section to prove that the Magistrate on the application of the Commissioners had ordered the land to be closed as a market-place and had taken orders to prevent such land being so used.—Putikabanui v. Vica-Chairman, Berimampur Mumicipality, 20 C. W. N. 1015.

PART XI.

NOTE.

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by this Part on the Local Government may not be delegated.—See s. 28 and Sch. G of the Darjeeling Municipal Act (Ben. Act 1. 1900).

1884.

Of the Registration of Births and Deaths.

Act 8.

346. The Commissioners of any municipality, when required by the Local Government to do so, shall Registration of births and provide for the registration of births and deaths. deaths within the limits of the municipality in accordance with the provisions of Bengal Act IV. of 1873 (for registering births and deaths), or any other similar Act for the time being in force.

On requisition of Govern. ment, Commissioners to appoint Sub-Registrars at burning ghats and burialgrounds.

347. The Local Government may require the Commissioners of any municipality to appoint and maintain at any burning-ghât and burial-ground a Sub-Registrar for the registration of all corpses brought to such burning-ghat or burial-ground for cremation or interment.

Information required by Bengal Act IV. of 1873 to be given to such Sub-Registrar.

348. Whenever a Sub-Registrar shall have been appointed for any burning-ghat or burial-ground under the last preceding section, information of the particulars required by section 8 of Bengal Act IV, of 1873 to be known and registered

may be given in respect of the death of any person whose body is brought to such burning-ghat or burial-ground for cremation or interment to such Sub-Registrar, and information so given shall be deemed to be information given to the Registrar of the District as required by the said section.

Section 9 of Bengal Act IV. of 1873 shall be applicable to all Sub-Registrars appointed under this Act.

349. Whenever a death shall occur in any hospital within the limits of any municipality in respect of Information of deaths in which the Local Government has directed hospitals. that all deaths shall be registered under Bengal Act IV, of 1873, it shall be the duty of the medical officer in charge of such hospital forthwith to send a notice in writing of the occurrence of such death to the Commissioners in such form as the Local Government may prescribe; and in such case no other person shall be required to give information of such death to a Registrar under Bengal Act IV. of 1873, or to a Sub-Registrar under this Act.

PART XIA.

Extinction and Prevention of Fire.

349A. For the prevention and extinction of fire, the Commissioners at a meeting may resolve to estab-Establishment and mainlish and maintain a fire-brigade, and to protenance of fire-brigade. vide any implements, machinery, or means of communicating in-

Pt. XIA (comprising ss. 349A and 349B) has been inserted by Len. Act IV. of 1894, s. 92.

telligence which the Commissioners may think necessary for the efficient discharge of their duties by the brigade.

1884. Act 8.

349B. (1) On the occasion of a fire in a municipality, any Power of fire-brigade and Magistrate, any Municipal Commissioner, other persons for suppression of fires.

Magistrate, any Municipal Commissioners, any member of a fire-brigade maintained by the Commissioners then and there directing the operations of men belonging to the brigade, and (if directed so to do by a Magistrate or by a Municipal Commissioner.) any police-officer above the rank of constable, may—

- (a) remove, or order the removel of, any person who by his presence interferes with or impedes the oprations for extinguishing the fire, or for saving life or property;
- (b) close any street or passage in or near which any fire is burning;
- (c) for the purpose of extinguishing the fire, break into or through, or pull down, or use for the passge of any hose or other appliance, any premises;
- (d) cause mains and pipes to be shut off so as to give greater pressure of water in the place where the fire has occurred;
- (e) call on the persons in charge of any fire-engine to render such assistance as may be possible;
- (1) generally take such measure as may appear necessary for the preservation of life or property.
- (2) No person shall be liable to pay damages for any act done by him under sub-section (1) of this section in good faith.

PART XIB. *

SANITARY OFFICERS.

349C. (1) The
Power to declare this Part
to be in force in any Municipality.

Local Government may, by notification published in the *Calcutta Gasette* announce its intention to declare this Part to be in force in any Municipality.

- (2) If the Commissioners or any rate-payer of any such Municipality object or objects to this Part being declared in force in the Municipality, they or he may, within a period of two months from such publication, submit such objection in writing through the the District Magistrate, to the Local Government: and the Local Government shall consider all objections so sent.
- (3) After the expiration of the said period, the Local Government if no objections have been so sent, or if it considers that the

^{*} This Parte which has been inserted by Ben. Act II. of 1914 is applicable only in territories under the Governor in Council of Fort William in Bengal.

1884.

objections so sent are in sufficient, may, by a like notification; make proposed declaration.

- (4) The substance of every notification under sub section (1) or sub-section (3) shall be translated, deposited, posted and proclaimed, within the Municipality affected, in the manner prescribed by section 354.
- 349D. (1) Notwithstanding anything contained in section
 Appointment of Sanitary
 Inspectors.

 46, the Commissioners of every Municipality
 in which this Part is in force shall from
 time to time, at a meeting appoint for the Municipality—
 - (a) a Health officer, or
 - (b) a Health officer and one or more Sanitary Inspectors or
 - (c) one or more Sanitory Inspectors,

as the Local Government may, by notification in the Calcutta Gazette, direct; such Health officer to be of such class, and such Sanitary Inspectors to possess such qualifications, as may be so directed.

- (2) The provisions of sub-section (1) shall not apply to any Municipality the income of which falls below ten thousand rupees a year.
- 349E. The Local Government shall from time to time fix the Salary and allowances of salaries to be paid to Health officers and Sanitary officers. Sanitary Inspectors out of the Municipal Fund, and the allowances to be granted to them during absence on leave.

Power to make rules.

349F. The Local Government may from time to time make rules prescribing—

- (a) the qualifications of candidates for employment as

 Health officers and Sanitary Inspectors respectively;
 and
- (b) the division of Health officers and Sanitary Inspectors into classes or grades according to their qualifications.
- 349G. When a Health officer has been appointed for any Municipality, the power conferred by section 199A shall be exercisible by fim as well as by the Chief Civil Medical officer of the district.
- 349H. Every section of this which relates to Municipal officers
 Application of Act to or servants shall, so for as it may be
 Sanitary officers. applicable, apply to the officers referred to in
 section 349D. Provided that no Health officer appointed thereunder
 shall be dismissed without the sanction of the Local Government.

PART XII.

Miscellaneous.

1884. Act 3.

350.* The Commissioners of any municipality may, from time Power to impose penalties to time, at a meeting which shall have been on breach of bye laws. convened expressly for the purpose, and of which due notice shall have been given, frame such bye-laws as they deem fit, not being inconsistent with this Act, or with any other general or special law for—

- (a) regulating traffic, and for the prevention of obstructions and encroachments, and of nuisances on or near roads;
- (aa) prohibiting the letting-off of fire-arms, fire-works, fire-balloons or bombs, except (i) with the permission of the Commissioners or a member of the Ward Committee of Municipal officer empowered by the Commissioners in this behalf, and (ii) on payment of fees at such rates as may be sanctioned by the Commissioners at a meeting;
- (b) regulating the use of, and the prevention of nuisances in regard to, public water-supply, bathing and washing places, streams, channels, tanks, and wells;
- (c) segulating the disposal of sewage, offensive matter, carcasses, of tals, and rubbish, and the management of privies, drains, cesspools, and sewers;
- (d) regulating cremations and burials and the disposal of corpses;
- (e) preventing nuisances affecting the public health, safety, or convenience; and
- (f) giving effect to the objects of this Act;

and may, by such bye-laws, impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of fifty rupees for each offence, and in case of a continuing offence a further penalty not exceeding twenty rupees for each day after written notice of the offence from the Commissioners.

NOTES.

. Jemporary amendment of s. 350 in its application to Darjeeling.—So far as s. 350 plates to—

- (a) preventing obstructions and encroachments on roads,
- (b) regulating the use of streams and channels, and
- (c) regulating the management of drains,

for the words from "The Commissioners" to "given," read "The Local Government may."—See s. 27 and Sch. F of the Darjeeling Municipal Act (Ben. Act I. of 1900).

^{*} Cls. (a) to (f) of s. 350 have been substituted, by s. 93 of Ben. Act IV. of 1894, for the words, "giving effect to the objects of this Act," cl. (aa) only being inserted by s. 17.0f. Ben. Act II. of 1896.

18**94**.

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by s. 350 on the Local Government may not be delegated.—See s. 28 and Sch. G of the Darjeeling Municipal Act (Berf. Act I. of 1900).

350A.* The Commissioners of a municipality, wholly or in Additional power to make bye-laws in hill municipalities.

bye-laws in hill municipalities.

meeting, in addition to such bye-laws as they may make under the last preceding section, make, repeal, or alter bye-laws—

- for regulating or prohibiting the cutting or destroying of trees or shrubs, or the making of excavations or removal of soil or quarrying, where such regulation or prohibition appears to the Commissioners to be necessary for any or all of the following purposes:—
- (a) the maintenance of a water-supply;
- (b) the preservation of the soil;
- (c) the prevention of landslips;
- (d) the formation of ravines or torrents;
- (e) the protection of land against erosion or the deposit thereon of sand, gravel, or stones.

NOTES.

In the application of this Act to Darjeeling, the following sections (350A and 350B) have been substituted for s. 350A by s. 20 of the Darjeeling Municipal Act (Ben. Act I. of 1900):—

- "350A. (1) The Commissioners, at a meeting which has been convened expressly Additional power to make for the purpose, and of which due notice has been given, bye-laws.

 may, from time to time, make bye-laws for enforcing, prohibiting, or regulating the doing of any act which may, in the opinion of the Conmissioners, affect the stability or security of any hillside or bank, or any immoveable property thereon.
- (2) In particular, and without prejudice to the generality of the foregoing power, the Commissioners at a meeting as aforesaid may make bye-laws for all or any of the following purposes, namely:—
 - (a) prohibiting or regulating the making of excavations, the cutting of hillsides or banks, and the removal of soil from hillside or banks;
 - (b) prohibiting or regulating quarrying;
 - (c) prohibiting or regulating the removal of stones from hillside, banks, jhores, or sites of landslips;
 - (d) for preventing or regulating the grazing or straying of cattle on hillsides or banks;
 - (e) for preventing the straying of poultry;
 - (f) for enforcing or regulating the cutting, trimming, of removal of tre's, should bamboos, bushes, or hedges bordering on, overhanging, or obstructing any road or drain, or causing, or being likely to cause, damage or injury to any road or drain, or to any person using any road;
 - (g) for enforcing, regulating, or prohibiting the cutting or descroying of trees shrubs, bamboos, or plants;
 - (h) for enforcing, regulating, or prohibiting the making of, or for regulating the maintenance of, gardens or garden-terraces;

^{*} S. 350A has been inserted by Ben. Act IV. of 1894, s. 94.

(j) for prohibiting or regulating the making of holes or the placing of loose earth for or around trees, shrubs, bamboos, or plants;

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(*) for enforcing or regulating the planting and maintenance of particular kinds of trees, shrubs, bamboos, or plants on land, where in the opinion of the Commissioners, such enforcement or regulation is necessary or desirable with a view to the better protection of any hillside or bank from landslips.

Temporary amendment of s. 350A (1) (as substituted, for s. 350A inserted by s. 94 of Ben. Act IV. 0/ 1894, by s. 20 of the Darje-ling Municipal Act, Ben. Act I. of 1900) in its application to Darjeeling.—For the words from "The Commissioners" to "given," read "The Local Government."—See s. 27 and Sch. F of the Darjeeling Municipal Act (Ben. Act I. of 1900).

(3) The word "cattle," as used in clause (d), shall have the same meaning as in the Cattle Trespass Act, 1871.*

Temporary amendment of s. 350A (2) (as substituted, for s. 350A inserted by s. 94 of Ben. Act IV. of 1894, by s. 20 of the Darjeeling Municipal Act, Ben. Act I. of 1900) in its application to Darjeeling.—For "The Commissioners at a meeting as aforesaid," **ead "the Local Government"—See s. 27 and Sch. F of the Darjeeling Municipal Act (Ben. Act I. of 1900).

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by s. 350 in the Local Government may not be delegated.—See s. 28 and Sch, G of the Darjeeling Municipal Act (Ben. Act 1 of 1900).

"350B. The Commissioners may, by any bye law made under s. 350A, declare Fines for breach of bye-laws made under s. 350A. that any person committing a breach of any such bye-law or failing to comply with any notice issued thereunder shall be liable to fine which may extend to fifty rupees, and to further fine which may extend to twenty rupees for each day after conviction during which the offence is continued."

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by s, 150B on the Local Government may not be delegated.—See s. 28 and Sch. G of the Darjeeling Municipal Act (Ben. Act I, of 1900),

351. Bye-laws made under this Act shall not take effect unless and until they have been submitted to, and confirmed by, the Local Government; nor shall such bye-laws be confirmed—

unless, one month at least before the making of the application, notice of the intention to apply for confirmation has been given in one or more of the local newspapers circulated within the municipality to which such bye-laws relate, or if there be no such newspapers, then in such manner as the Commissioners may direct; and unless, for one month at least before any such application, a copy of the proposed bye-laws has been kept at the office of the Commissioners, and has been open during office-hours thereat to the inspection of the inhabitants of the municipality to which such bye-laws relate, without fee or reward.

The Commissioners shall, on the application of any inhabitant of the municipality, furnish him with a copy of such proposed bye-laws on payment of four annas for every hundred words contained in the copy.†

^{*} Act 1. of 1821. * † A paragraph after this has been omitted by Ben. Act IV. of 1894.



Local Government may cancel its confirmation of any bye-law.

"The Local Government my cancel its confirmation of any such bye-law, and there-upon the bye-law shall cease to have effect."*

NOTES.

Temporary amendment of s. 351 in its application to Darjeeling.—After "the Commissioners," wherever those words occur, insert "or the Local Government, as the case may be."—See s. 27 and Sch. F of the Darjeeling Municipal Act (Ben. Act 1, of \$900).

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by s 351 on the Local Government may not be delegated.—See s. 28 and Sch. G of the Darjeeling Municipal Act (Ben. Act I. of 1900).

Power to make rules as to business and affairs.

351A.† (1) The Commissioners at a meeting may from time to time make, repeal, or alter rules as to—

- (a) the time and place of their meetings, the business to be transacted at meetings, and the manner in which notice of meetings shall be given;
- (b) the conduct of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of meetings;
- (c) the custody of the Common Seal;
- (d) the division of duties among the Commissioners, and the powers to be exercised by sub-committees or members to whom particular duties are assigned;
- (e) the persons by whom receipts shall be granted for money received under this Act;
- (f)‡ the duties, appointment, leave, fining, suspension, and removal of municipal officers and servants;
- (g) and other similar matters.
- (2) Rules made under this section, consistent with this Act, shall be subject to the sanction of the Local Government, and shall, if sanctioned, be published in such manner as the Local Government may direct, and shall have the force of law.

NOTES.

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by s. 351A on the Local Government may not be delegated,—See s. 28 and Sch. G of the Darjeeling Municipal Act (Ben. Act I. of 1900).

In the application of this Act to Darjeeling, the following ss. (351B to 351H) are inserted after s. 351A hereof by s. 21 of Ben. Act I. of 1900 (the Darjeeling Municipal Act):—

[•] In s. 351, the last paragraph has been substituted by Ben. Act IV. of 1894, s. 95, for the one originally enacted.

[†] S. 351A has been inserted by Ben, Act IV. of 1894, s. 96. ‡ Cl. (/) has been substituted for the pre-existing clause by Ben. Act II. of 1896, s. 18,

Power to make rules for the amendment of Schedules A, B, C, and D.

"751B: (r) The Local Government may make rules to regulate any of the matters referred to in section 201F, 229A, 237, and 248E, and may by such rules alter, add to, or cancel any of the rules contained in Schedules A, B, C, and D, respectively.

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(2) All references in this Act to any of the aforesaid schedules shall be construed as referring to such schedule as for the time being amended in exercise of the powers conferred by sub-section (1).

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by s 331B on the Local Government may not be delegated. - See s. 28 and Sch. & of the Darjeeling Municipal Act (Ben. Act I. of 1900).

"35tC. The Commissioners, or any officer in receipt of a salary of not less than fifty Power of entry to inspect, survey, or execute work.

rupees per mensem who may be authorized by them in that survey, or execute work. behalf, may enter into or upon any building or land with or without assistants or workmen, in order to make any inspection, survey, measurement, valuation, or inquiry, or execute any work which is authorized by any of the clauses enected by the Darjeeling Municipal Act, 1900, or by any rule or bye law made under any such clause, or which it is necessary, for any of the purposes or in pursuance of any of the provisions of any such clause, rule, or bye-law, to make or execute:

Provided as follows :-

- (a) except when it is in this Act otherwise provided, no such entry shall be made between sunset and sunrise;
- (b) except when it is in this Act otherwise provided, no dwelling-house; and no hut which is used as a dwelling-place, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least six hours' previous written notice of the intention to make such enter;
- (c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;
- (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Appeal to specially appointed Engineer.

"351D. (1) The Local Government may, by notification in the Calcutt's Gasette, appoint an Engineer to hear, appeals under this Act.

(2) An appeal shall lie to the said Engineer from any order (not being an order apportioning expenses) or requisition made under s 201C, sub-s. (4), s. 210, s. 210B, s. 210C, s 224B, sub-s (3), s. 228, s. 239, cl. (b), s. 243, cl. (b), s. 244B, sub-s. (2) s. 244H sub-s. (1) or sub-s. (3), s. 244L, cl. (6), s. 244Q, sub-s. (2), s. 244V, s. 248A, s. 348B, s. 248C, or s. 248D.

So far as this Act relates to Darjeeling, the powers or duties conferred or imposed by s. 351D on the Local Government may not be delegated .- See s. 28 and Sch. G. of the Darjeeling Municipal Act (Ben Act I. of 1900).

"351E. An appeal shall lie to the Commissioner of the Division from any order sp-Appeal to Commissioner of portioning expenses incurred in pursuance of s. 22848. 248B, s. 248C, or s. 248D.

"351F. Every appeal under s. 351D or s. 351E must be presented within a period of thirty days after the date of the order or requisition against Limitation of time for appeal. which the appeal is made :

Provided as follows: -

- (a) if in any case the said period expires on a day when the office of the afore" said Engineer or Commissioner is closed, the appeal may be presented on the day that the said office is re-opened;
- (8) any appeal may be admitted after the expiration of the said period when the appellant satisfies the appellate authority that he had sufficient cause for not presenting the appeal within such period.

"351G. (1) In dealing with any appeal preferred to him under .s. 351E,

Assessors in appeals to Commissioner shall be assisted by two assessors, who
missioner of the Division.'

shall be selected and summoned by him for each appeal or group of appeals from a list to be prepared annually by the Deputy Commissioner:

Provided that, if any assessor so summoned ifails to appear, the appeal may be heard in his absence.

- (2) The assessors, if present, shall be consulted by the Commissioner, and their opinion shall be recorded in writing; but the Commissioner shall not be bound to conform to their opinions.
- "351H. (1) If the Engineer appointed under s. 351D, or the Commissioner of the Record of decision on appeal Division, rejects any appeal preferred to him under this Act, he shall, by written order, specifically state the grounds for such rejection.
- (9) The said Engineer shall, when deciding any reference made to him under this Act, specifically state in writing the ground's for his decision.
- (3) A copy of all . rders passed by the said Engineer or Commissioner on any such appeal, or by the said Engineer or any such reference, shall forthwith be forwarded by him to the Commissioners, who shall thereupon inform the appellant, or the person who made the reference, as the case may be, of such orders."
- 352. The Commissioners may direct any prosecution for any public nuisance, and may order proceedings Commissioners may dito be taken for the recovery of any penalties rect prosecution for public under this Act, and for the punishment of nuisan**c**e. any persons offending against the same, and may order the expenses of such prosecution or other proceedings to be paid out of the Municipal Fund.

NOTES.

Temporary amendment of s. 352 in its application to Darjeeling.—Before "may order proceedings," insert "the Commissioners or the Local Government, as the case may be;" and after "the Municipal Fund," insert "or out of the public tunds, as the case may be."-See s 27 and Sch. F of the Darjeeling Municipal Act (Ben. Act I. of 1980.

Public Nuisance. - The definition of "nuisance" in s. 3, cl. 29 of the Calcutta Municipal Act is wider than the common law definition of public nuisance but does not certainly extend to the inclusion of all private nuisances.

A public nuisance is one that affects the kings subjects at large or a considerable portion of them such as the inhabitants of a town. A private nuisance on the other hand is one that affects only one person or a certain determinate number of persons and is only amenable to the civil law.

Nuisance under the Calcutta Municipal Act is in the nature of a public nuisance but it may affect the lives and property of individuals or defined bodies of persons resident in a specified area.—Khogandra Nath v. Bhupbndra Nath, 15 C. W. N. 316-38 C. goð.

Punishment under Penal Code.—The Municipal Act is intended to be complete in itself as regards offences committed against the Municipal Commissioners, and there is no indication of any intention to render a delinquent also liable to punishment under the Penal Code.—CHANDI V. ABDUR, 22 C. 131.

No prosecution for an offence under this Act to be instituted without consent of Commissioners.

353. No prosecution for an offence under this Act, or any bye-law made in pursuance thereof, shall be instituted without the order or consent of the Commissioners, and no such prosecution shall be instituted except within

"six" months next after the commission of such offence, unless the 1884. offence is continuous in its nature, in which case a prosecution may be instituted within "six" months of the date on which the Act 8. commission or existence of the offence was first brought to the notice of the Chairman of the Commissioners:

Provided that the failure to take out any license under this Act shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out,

Consent of Commissioners.—By the word Commissioners is meant Chairman or Vice-Chairman delegated with the powers of Chairman.—Vide ss. 44 and 45.

The proviso to s. 45 of the Bengal Municipal Act, 184, cannot be considered as altogether overriding the body of the section, and relates only to specific acts in which an express or implied consent may have been given or held to have been given. It cannor be held to apply to a general authority, verbally given by a Chairman to a Vice-Chairman, to institute prosecutions under the Act, as such power can only, under the body of the section, he delegated by a written order. In a prosecution instituted by a Vice-Chairman for obstucting a drain, where it appeared that the Chairman had some months previously verbally given the Vice-Chairman general authority to institute all such prosecutions under s 353 of the Act, and it appeared that a conviction had been obtained before a Bench of Magistrates, and that, on appeal to the Magistrate, the conviction had been upheld, the Magistrate himself being the Chairman, and hearing the appeal with the express consent of the accused, and where it was contended in revision before the High Court, that although there was no written order by the Chairman delegating his powers, it must be taken upon the facts proved and the circumstances of the case that the prosecution had been instituted with the express or implied consent of the Chairman obtained, both previously and subsequently, within the terms of the proviso to s. 45. Held, that the proviso did not apply to the case; that the prosecution had not been properly instituted; and that the conviction and sentence must be set aside .-KHPRODA PROSAD PAUL v. THE CHAIRMAN OF THE HOWRAH MUNICIPALITY, I. L. R., 20 Cal. 448. See also 20 C. W. N. 824 and 16 C. W. N. 954.

NOTE.

Limitation - The petitioner was convicted of an offence of having erected culverts on pucca drains belonging to a municipality, and prosecution for such offence was made six months after the date on which the commission was first brought to the notice of the Chairman. Held that, though the offence was continuous in its nature, the prosecution was barred under s. 353 of the Bengal Municipal Act, and that s. 218 had no application to a case of this kind .- LUTTI SINGH v. THE BEHAR MUNICIPALITY, I C. W. N. 492; See also 6 C. W. N. 167.

854. Every bye-law, order, notice, or other document directed to be published under this Act, shall be Publication of order. written in, or translated into, the vernacular of the district, and deposited in the office of the Commissionors; . and a copy shall be posted up in a conspicuous position at such office, and in such other public places as the Commissioners may direct.

And a public proclamation shall be made throughout such municipality by beat of drum notifying that such copy has been so posted up, and that the original is open to inspection in the office of the Commissioners.

^{. *} In s. 353, the word "six" has been substituted, by Ben. Act IV. of 1894, s. 97 for the word "three." . .

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NOTE.

Act &

Temporary amendment of s. 354 in its application to Darjeeling.—After "deposited in the office of the Commissioners," insert "or of the authority issuing the same;" after "as the 'Commissioners," insert "or the said authority, as the case may be;" and for "inspection in the office of the Commissioners," read "inspection in the said office."—See s. 27 and Sch. F of the Darjeeling Municipal Act, (Ben. Act I. of 1900).

- 355. Fines under this Act may be imposed by a Magistrate on any person who is convicted of the offence to which the fine attaches, and may be levied under the provisions of the Code of Criminal Procedure, 1882.*
- 356. Every notice, bill, form, summons, or notice of demand How notice, &c., may be under this Act, may be served personally on, or presented to, the person to whom the same is addressed;

or be left at his usual place of abode, with some adult male member or servant of his family;

or if it cannot be so served, presented, or delivered, may be put on some conspicuous part of his place of abode;

or of the land, building, or other thing in respect of which the notice, bill form, summons, or notice of demad, is intended to be served.

Service of notice on owner or occupier of land.

Service of notice on owner or occupier of land.

case may require, may be served on the occupier of such land, or otherwise in the manner in the last preceding section mentioned:

Provided that, when the owner and his place of abode are known to the Commissioners or other authorities issuing the notice, they shall, if such place of abode be within the limits of their authority, cause every notice required to be given to the owner of any land to be served on such owner, or left with some adult male member or servant of his family;

and if the place of abode of the owner be not within such limits, they shall send every such notice by post in a registered cover addressed to his place of abode, and such service shall be deemed to be good service of the notice.

When the name of the owner or occupier is not known; it shall be sufficient to designate him as "the owner" or "the occupier" of the land in respect of which the notice is served.

358. No assessment or rating of tax on property shall be Tax not invalid for want invalid for error or defect of form, and it of form. shall be enough in any assessment, valuation, or rating for the purpose of making such tax, if the property so

^{*} Thir reference to Act Xi. of 1882 shall now be taken to have beer made to Act V. of 1898 (the new Criminal Procedure Code).—See s. 3 (1) of the latter Act.

assessed or valued is so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

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359. Every person to whom a license has been granted under Holder of license to prothis Act shall, at all reasonable times while duce it when required. Such license shall remain in force; if thereunto required by the authorities which granted the license, or by any person authorized by them in that behalf, produce such license to the said authorities, or to the person so authorized.

Whoever fails to produce his license when required to produce the same by any person authorized under this section to demand the production thereof shall be liable to a fine not exceeding one hundred rupees.

360. All costs, expenses, fees, tolls, or other moneys due Recovery of moneys due under this Act to the Commissioners of any to the Commissioners. municipality, may be recovered in the manner provided in sections 120 to 129 (both inclusive).

NOTE

Temporary amendment of s. 360 in its application to Darjeeling.—After "the Commissioners of any municipality," insert "or the Local Government."—See s. 27 and Sch. F of the Darjeeling Municipal Act (Ben. Act I. of 1900).

361. If money be due under this Act in respect of any holding Power to sell unclaimed from the owner thereof, on account of any holdings for money due. tax, expenses, or charges recoverable under this Act, and if the owner of such holding is unknown, or the ownership thereof is disputed, the Commissioners may publish twice, at an interval of three months, a notification of sale of such holding, and after the expiry of not less than three months from the date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder, who shall, at the time of sale, deposit the full amount of the purchase-money.

After deducting the amount due to the Commissioners as aforesaid, the surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of such Commissioners, or in a Court of competent jurisdiction.

Any person may pay the amount due at any time before the completion of the sale, and may recover such amount by a suit in a Court of competent jurisdiction from any person beneficially interested in such property.

NOTES.

Temporary amendment of s. 301, para. 2, in its application to Darjeeling. In para. 1, after "the Commissioners," insert "or the Local Government as the case may be. In para. 2, arter "the Commissioners" insert "or the Local Government;" after "the Municipal Fund," insert "or the public funds, as the case may be;" and after "such Commissioners," insert "or the Local Government, as the case may be."—See 3. 27 and Sch. F of the Darjeeling Municipal Act (Ben. Act I. of 1900).

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The purchaser of a holding sold under this section does not acquire it free from incumbrances, there being no provision in the Act creating any charge or other preferential right.—MAHOMMAD SOLEMAN C. RAGHUNATH DUTTA, 21 C. W. N. 925.

362. The Commissioners may make compensation out of the Municipal Fund to any person sustaining Compensation for daany damage by reason of the exercise of any mages. of the powers conferred by this Act.

In the application of this section to Darjeeling, see s. 25 of the Darjeeling Municipal Act (Ben. Act I. of 1900).

No action to be brought against the Commissioners or their officers until after one month's notice of cause of action.

363. No suit shall be brought against the Commissioners of any municipality, or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the

office of such Commissioners, and also (if the suit is intended to be brought against any officer of the said Commissioners or any person acting under their direction) at the place of abode of the person against whom such suit is threatened to be brought, stating the cause of suit and the name and place of abode of the person who intends to bring the suit;

and unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afferwards.

If the Commissioners or their officer, or any person to whom any such notice is given, shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

NOTES.

Temporary amendment of s. 363 in its application to Darjeeling.—After "any municipality," "the said Commissioners," and "If the Commissioners," respectively, insert "or the Local Government;" and after "such Commissioners," insert "or of the Local Government, as the case may be."-See s. 27 and Sch. F of the Darjeeling Municipal Act (Ben. Act I. of 1900).

There is no difference between s. 87 of Act III. (B. C.) of 1864 and s. 363 of III. (B. C.) of 1864. As the former section, so also the latter, is applicable only in those cases where the plaintiff claims damages or compensation for some wrongful act committed by the Commissioners or their officers in the exercise or honestly supposed exercise of statutory powers. In cases other than these, s. 363 has no application.—Sudhangsu, s. Bijov, 3 C. L. J. 376.

Premature institution of suit.—The plaintiffs' cause of action against a Municipality accrued on August 30, he served the required notice under s. 363 of the Bengal Municipal Act on October 28, and instituted the suit on November 28, on which date the plaint was returned for amendment and it was again presented on December 1. The objection that the suit was premature was not taken in the wirtten statement, but in the course of argument: Held that, if the suit be considered to have been instituted on December 1, the suit was barred under the second paragraph of s. 363, and if it be considered to have been instituted on Nevember 28, it was premature by one day under the first paragraph. Held further, that a plea of want or insufficiency of notice may be taken in the course of argument though not taken in the written statement.— BROHEMBER LAL v. CHAIRMAN CHAPRA MUNICIPALITY, 5 Ind. Cas. 81.

1884. Act 8.

364. Notwithstanding anything contained in section 3 of Bengal Act VI. of 870 (an Act to provide Chaukidari chakran lands, for the appointment dismissal, and maintenance of village chaukidars), the provisions of Part II. of the said Act, relating to chaukidari chakran lands, shall be applicable to all such lands which have been assigned before the commencement of the said Act for the benefit of any part of a municipality, and all duties and functions which the panchayat of a village, or any member thereof, is required to discharge under the provisions of the said Part shall be discharged, and all powers which the panchayat of a village, or any member thereof, is authorized to exercise under the said Part shall be exercised, by the Commissioners of such municipality, and the proceeds of the assessment on such lands made under the said Part shall be paid into the Municipal Fund, and shall be available for the purposes of such fund.

365* All police-officers shall give immediate information

Police-officer to report to the Commissioners of the municipality
offences and arrest persons refusing to give name and residence.

"or any bye-law made in pursuance thereof."

When any person, in the presence of a police-officer, commits, or is accused of committing, any such offence, and refuses, on demand of a police-officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained; and he shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless, before the expiration of that time, his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

Upon the recommendation of the Commissioners, any servant of the Commissioners in receipt of a salary of not less than ten rupees per mensem, when empowered in that behalf by a general or special order of the District Magistrate, may exercise the powers of a police-officer under this section.

NOTE.

Temporary amendment of s. 305 in its application to Darjeeling.—In para. s. for "of the municipality" read "or the Local Government, as the case may be." In para. 3, before "any servant" insert "or of any officer appointed in this behalf by the Local Government;" and before "in receipt" insert "or the Local Government, as the case may be,"—See s. 27 and Sch. F of the Darjeeling Municipal Act (Ben. Act I. of 1900).

^{*} In s. 365, the words quoted at the end of the first paragraph have been inserted, and the last paragraph has been added thereto, by Ben. Act IV. of 1894, s. 98.

1884. Act 3.

366. If any person employed under this Act (not being a public servant within the meaning of section Penalty on officers, &c., 21 of the Indian Penal Code) shall accept or taking unauthorized fees. obtain, or agree to accept, or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Commissioners, or with any public servant, or with the Government, in the discharge of his official duties, he shall be punished with imprisonment, either simple or rigorous, as provided in section 53 of the Indian Penal Code, for a term which may extend to three years, or with a fine not exceeding five thousand rupees, or with both.

Saving clause.

367. Nothing in this Act contained shall be construed to—

- (a) render lawful any act or omission on the part of any person, which, but for this Act, would by law be deemed to be a nuisance;
- (b) exempt any person guilty of nuisance from a suit in respect thereof;
- (c) affect any enactment not hereby expressly repealed.

FIRST SCHEDULE.

(See sections 8 and 17.)

MUNICIPALITIES IN WHICH THE COMMISSIONERS SHALL BE APPOINTED BY THE LOCAL GOVERNMENT.

	Municipality.
***	Chundurea.
***	Debhatta.
•••	Darjeeling.
•••	Hazaribagh.
•••	Chyebassa.
***	Nalchiti.
***	halokhati.
•••	Cox's Bazar.
•	Lallgunge.
	Sitamurhee.
•••	Rosera.
•••	Bettia.
	Colgong.
•••	Jaipore.
,,,	Kendrapara,

THE BENGAL MUNICIPAL ACT.

SECOND SCHEDULE.

1884 Act 3.

(See sections 8 and 23.)

MUNICIPALITIES IN WHICH THE CHAIRMAN SHALL BE APPOINTED BY THE LOCAL GOVERNMENT.

	20012 00,211.22	
District.		Municipality.
Burdwan	•••	Dainhat.
Hooghly	•••	Utterpara.
24-Pergunnahs	•••	[Suburbs of Calcutta.] Repealed by Ben. Act II. of 1888.
Ditto	•••	Barripore.
Nuddea	•••	Santipore.
Ditto	•••	Beernagore.
Ditto	•••	Moheshpore,
Moorshedabad	•••	Kandi.
Darjeeling	•••	Darjæling.
Hazaribagh	•••	Hazaribagh.
Ditto	•••	Chuttra.
Lohardugga	•••	Ranchee.
Singbhoom	•••	Chyebassa.
Manbhoom	***	Purulia.
Chittagong	***	Cox's Bazar.
Patna	•••	Patna.
Gya	***	Gya.
Sahabad	***	Sasseram.
Ditto	***	Bhubooah.
Mozufferpore	•••	Sitamurhee.
Durbhunga	***	Durbhunga.
Ditto	•••	Mudhoobunnee.
Sarun	•••	Sewan.
Chumparun	***	Bettia.
Cuttack	***	Jajpore.
Ditto	•••	Kendrapara,
		-

THIRD SCHEDULE.

FORM A .- (See section 112.)

Notice to be published of the Preparation of the List of Assessment on Persons.

(Bengal Municipal Act, 1884, section 112.)

MUNICIPALITY OF

Whereas an assessment list of the tax upon persons occupying holdings has been deposited in the Office of the Commissioners as required by section 112 of the Bengal Municipal Act, 1884, notice is hereby given that the said list is open to the inspection of all persons desiring to inspect the same at the Office of the said Commissioners 844

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THIRD SCHEDULE-concluded.

Act 8.

during office-hours on any day not being a close holiday, and that the several persons whose names are included in the said assessment are hereby required to pay the quarterly instalments set opposite to their names with regularity at the office appointed by the Commissioners for the receipt of the same, or to the Tax Collector or other officer authorized to receive payment, the first payment to be made on the first day of (), and every subsequent payment on or before the first day of (), the first day of (), and the first day of (), or in default thereof any arear that may be due will be realized by distress and sale of the moveable property belonging to the defaulter, or which may be tound on the holding in respect of which such defaulter is assessed, and by such other proceedings as are allowed by law.

Dated this day of

A, B.,

Chairman of Commissioners.

FORM B .- (See section 112.)

Notice to be published of the Preparation of the Valuation and Rating List of Holdings,

(Bengal Municipal Act, 1884, section 112.)

MUNICIPALITY OF

Whereas a valuation and rating list of the rate on the annual value of holdings has been deposited in the Office of the Commissioners as required by section 112 of the Bengal Municipal Act, 1884, notice is hereby given that the said list is open to the inspection of all persons desiring to inspect the same at the Office of the said Commissioners during office-hours on any day not being a close holiday; and that the several owners of the holdings included therein are hereby required to pay the quarterly instalments set opposite to their names with regularity at the office appointed by the Commissioners for the receipt of the same, or to the Tax Collector or other officer authorized to receive payment, the first payment to be made on the first day of () and every subsequent payment on or before the first day of (), the first day of (), and the first day of (), and in detault thereof, any arrear that may be due will be realized by distress and sale of the moveable property belonging to the defaulter, or which may be found on the holding in respect of which the valuation is made, and by such other proceedings as are allowed by law.

Dated this day of

A. B.,

Chairman of Commissioners.

FOURTH SCHEDULE.

FORM A .- (See section 120.)

NOTICE OF DEMAND UNDER SECTION 120.

(Bengal Municipal Act, 1884.)

To

MUNICIPALITY OF

Take notice that the sum of Rs. , being the amount due from you as shown in the accompanying bill, is hereby demanded from you, and that, if you do not, within fifteen days, pay the same to an officer authorized to receive payment, or into the office of the Municipal Commissioners, the amount, together with costs, will be levied by distress and sale of your goods and chattels, or otherwise as provided by law.

A, B.,

Chairman of Commissioners.

FOURTH SCHEDULE, -continued.

1884.

The following note will be added at the foot of the above notice in those cases only in which the notice is to be addressed to a person who has not already paid one instalment of the tax at the rate at which the demand is made.

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Note.—If you have any objection to make against this demand, you may, instead of paying the amount which is hereby demanded, present a petition to the Commissioners, praying for a review of the amount assessed (or rated). Such petition must be presented within fifteen days of the service of this notice, otherwise it will not be received. If you present such petition, no amount will be levied from you until the Commissioners shall have passed an order on your petition; but, after fifteen days from such order, the amount due by you, with such costs as the Commissioners may direct, will be levied, unless it has been previously paid.

FORM B.—(See section 121.)

TABLE OF FEES PAYABLE UPON DISTRAINTS UNDER THIS ACT.

S	ums dis	traine	d for.					Fee	.
								Rs.	A.
Under		1	rupee	•••	•••		***	0	4
1	and und	ier 5 r	upees	***	•••	***	•••	0	8
5	,,	10	11	•••	***	•••	•••	I	0
10	,,	15	11	•••	***	•••	•••	I	8
15	,,	20	,,	•••	•••	•••	***	2	0
20	93	25	2)	***		•••	9.0	2	8
25	**	30	,,	•••	***	***	•••	3	8
• 30	**	35	**	***	***	•••	***	3	8
35 40	*	40	**	***	•••	***	***	4	8
40	"	45	3)	•••	•••	***	•••	4	8
45	,,	50 60	"	***	***	***	***	5 6	0
45 50 60	n		"	•••	•••	•••	•••	6	O
60	**	80	**	•••	***	•••	***	7	8
80	11	100	**	•••	•••	•••	•••	9	0
	Above	100	11	***	•••		•••	10	0

The above charge includes all expenses, including the service of notice of demand, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man. It the amount demanded be paid or the warrant discharged before the sale is held, so that no sale is necessary, one-fourth of the fees specified in the above table shall be remitted.

FORM C.- (See section 122.)

DISTRESS WARRANT.

Bengal Municipal Act, 1884 (Section 122).

To (here insert the name of the officer charged with the execution of the warrant).

has not paid or shown sufficient cause for the non-Whereas rupees due for taxes (or rates) mentioned in the marpayment of the sum of gin, although the said sum has been duly demanded in writing from the said and fifteen days have elapsed since the service of the notice of demand. This is to require you to distrain the moveable property of the said wherever it may be found within the municipality, except ploughs, plough-cattle, tools, or implements of trade or agriculture, or any other moveable property, subject to the same exceptions, which may be found within the holding specified in the margin to the amount of the said to defray the charges of taking, keep-, and the further sum of sum of ing, and selling such property; and if, within ten days next after such distress, the said shall not be paid, to sell the said property, and having paid and desum of

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FORTH SCHEDULE, -Concluded.

Act 3.

ducted out of the proceeds of the sale the said sum of , and the charges of taking, keeping, and selling such property, to return the surplus (if any) on demand to the person whom you shall have found in possession of the said property, and, if no demand be made, to pay the same to the Commissioners. If distress cannot be made of sufficient property of the said , you are to certify the same to us in returning this warrant.

A. B.,

Chairman of Commissioners.

FORM D.—(See section 122.)

FORM OF INVENTORY AND NOTICE.

Bengal Municipal Act, 1884 (Section 122).

(State particulars of goods seized.)

Take notice that I have this day seized the property specified in the above inventory for the sum of due for the taxes (or rates) mentioned in the margin, and that, unless you pay to me or into the office of the Commissioners of the said sum of , and the further costs of this distraint as specified below, within ten days from the day of the date of this notice, the property will be sold.

(Signature of the officer executing the warrant of distress.)

Costs of distraint-

Date

FORM E .- (See section 124.)

REGISTER OF DISTRAINTS OF PROPERTY AND SALES HELD ON ACCOUNT OF ARREADS FOR THE MONTH OF

- 1. Name of defaulter.
- Number on register and specification of the holding on account of which the arrear is due.
- 3. Amount of arrear due.
- 4. Amount of costs and penalty.
- 5. Total amount to be realized.
- 6. Inventory of property seized under distress.
- 7. Date of distress.
- 8. Date of sale.
- Detail of articles sold.
- 10. Amount realized on each article.
- 11. Purchaser's name.
- 12. Total amount realized.
- 13. Amount paid into the Commissioners' Office on account of the arrear due with date,
- 14. Amount paid into the Commissioners' Office on account of costs and penal-
- Surplus proceeds of sale remaining after deducting the amount of arrears, costs, penalties due.
- 16. How the surplus was disposed of, with date of such disposal.
- 17. Balance of arrear still remaining unrealized, if any.
- On what date such remaining balance was realized or written off by authority.
- 19. Remarks (explaining why the property seized was released without sale, if not eventually sold, &c., &c.).

FIFTH SCHEDULE,

(See sections 86 and 131.)

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TAX ON CARRIAGES AND ANIMALS. .

							Per uarter.	
						Rs.	A,	
For every 4-wheel	ed carriage dra	awn by two	horses	•••		4	8	
For every 4-wheel thirteen ha	ed carriage dra	wn by one	horse or a	pair of ponies u	nder	į	_	
					•••	3	0	
For every 4-wheel	ed carriage dra	wn by one	pony under :	13 hands	•••	2	8*	
For every 2-wheel	ed carriage	•••	•••	•••		2	8	
For every horse			•••	•••	•••	2	0	
For every pony ur	ider thirteen ha	nds, and fo	r every mule	and donkey		o	12	
 For every elephan 	t	•••	•••			6	0	
For every camel	•••	•••	•••	•••		2	0	
Carriages the wheels of	which do not e	xceed twer	ty-four inche	s in diameter a	re ex	emp	ted.	

SIXTH SCHEDULE.

(See sections 2 and 4.)

Act of the Governor-General in Council.

Number and year.	Subject.	Extent of repeal.
XXI. of 1857	To make better provision for the order and good government of the Station of Howrah.	Sections 4, 5, 6, 8, 9, 16, 17, 24, 33, 34, 35, 36, 37, 39, 46.

Acts of the Lieutenant-Governor of Bengal in Council.

Number and year.		Subject.	Extent of repeal	
V. of 1873	•	To provide for the levy of a lighting rate in Howrah.	The whole Act,	
V.•of 1876†	•	To amend and consolidate the law relating to municipalities.	Ditto.	
VI. of 1878		To provide for the cleansing and construction of latrines in first-class Municipalities.	Ditto,	

In the Fifth Schedule, the words and figures in this line have been inserted by Ben. Act IV. of \$30\$, s. 99.

† This Act has been repealed in places in which this Act is in force.

By s. 22 of the Darjeeling Municipal Act (Ben. Act I. of 1900), the following schedules (A, B, C, and D) have been added after the Sixth Schedule of this Act in its application to Darjeeling:—

"SCHEDULE A.

RULES AS TO PRIVATE ROADS AND BRIDGES.

(see sections 201C, 201F, and 351B.)

Part I .- Roads.

- 1. (1) Every application for permission to construct, reconstruct, or alter a Application for permission to private road other than a footpath must be accompanied construct, reconstruct, or alter by—
 - (a) a plan of the road, showing cross-sections.
 - (b) type-drawings of all bridges to be provided or already provided for the road, and
 - (c) a description of the provision which it is intended to make or which already exists in respect of retaining-walls and reverments (if any) and drainage.
- (a) Every application for permission to construct, reconstruct, or alter a private tootpath must be accompanied by a full description of the path.

Slope.

- 2. (1) A private road must be so constructed as to have a slope inwards towards the hillside.
- (2) Such slope must be not less than the gradient of the road.
- 3. (1) Whenever the Commissioners so direct, the outer edge of a private road
 Retaining walls and rivet.
 ments.

 Retaining walls and rivet.
 by revetments.
- (2) Such walls and revetments must be of such number, and must be placed in such positions as the Commissioners may direct, and must be constructed in accordance with the rules contained in Schedule D.

Drain.

4. A stone-lined drain must be provided on the inner side of a private road, where such side is not rock.

Part 11 .- Bridges.

Application for permission to construct, reconstruct, or alter a private bridge.

- Every application for permission to construct, reconstruct, or alter a private bridge must be accompanied by drawings of the bridge.
- 6. A private bridge must be constructed so as to leave sufficient warerway to pass the maximum discharge of the channel spanned by the bridge.
- 7. The flooring placed in the bed of the channel under a private bridge must, as far as practicable, be laid at the same slope as that of the channel.
- 8. When a pocket for the deposit of débris is cut in the hillside above a private bridge, otherwise, than in solid rock, such pocket must be lined with masonry walling.
- 9. Where a small drain is crossed by a private road, a wooden or iron grating

 Substitution of gratings for culverts.

 must, if the Commissioners so direct, be laid over the drain, instead of a covered culvert.

"SCHEDULE B.

1884

[Applies to Darjeeling only.]

RULES AS TO PRIVATE DRAINS.

(See sections 224B, 229A, and 351B).

Construction of drains for I. Drains for sullage-water must be construct-sullage-water.

- (a) with round or half-round tiles bedded in concrete, or
- (b) with U-shapped stone masonry set in lime mortar and plastered over the inner surface with Portland cement, or
- (c) with U-shaped stone concrete.
- 2. (1) Drains for surface-water only may be constructed either of dry rubble Construction of drains for masonry or of any other material approved by the Commissioners, and may be either rectangular or U-shaped or V-shaped in section.
- (a) Such drains shall not be connected with any drain carrying sullage-water or sewage.
 - 3. Except with the written permission of the Commissioners, no covered drain shall be constructed, and no open drain shall be covered in,

Sectional area.

4. The sectional area of every drain shall be subject to the approval of the Commissioners.

Discharge.

- 5. (1) Drains must discharge into the nearest waterchannel or public drain, unless in any case the Commissioners otherwise direct.
- (2) The outfall of a drain into a water-channel or public drain must be protected and guided in such manner as the Commissioners may direct.
- (3) Where the drain of a private road joins the drain of a public road, the former drain must be so directed or so protected by strike-boards as to minimise the risk of damage to the public drain or road.
- 6. A masonry drain must be placed round every masonry or framed building or Drain round masonry or block of such buildings, and the site must be sloped from all sides towards such drain.

"SCHEDULE C.

[Applies to Darjeeling only.]

Rules as to the Use of Building-sites and the Execution of Building-work.

(See sections 238, 239, 240, 243, 244B, 244C, 244J, 244L, 244O, 272E, and 351B.)

Part 1.—Definitions.

Definitions.

I. In this Schedule, unless there is anything repugnant in the subject or context,—

- (a) the word "base," as applied to a wall, means the underside of the course immediately above the footings of the wall;
- (b) "nogging" means lime or cement concrete, or brick-work in lime or cement mortar, which is filled in between the frames of iron or wood in a framed building;

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- (c) "party-wall" means a wall forming part of a building and used or constructed to be used for the support and separation of adjoining buildings belonging to different owners, or constructed or adapted to be occupied by different persons; and
- (d) "topmost storey" means the uppermost storey in a building, whether constructed wholly or partly in the roof or not, and whether constructed, used, or adapted to be used, for human habitation or not.

Part II.—Building-sites.

- 2. (1) when any application is made for approval of a site for the erection,

 Certificate by Engineer as to
 site.

 re-erection, or material alteration of a masonry or framed building, or when any application for permission to erect,
 re-erect, or materially alter a hut, involves the approval of a site, the Commissioners shall refer the application to the Municipal Engineer, who shall certify—
 - (a) whether, in his opinion, the site is reasonably secure from danger from hillside slips, either from above or from below, or could be made secure as aforesaid by the addition of protective works, and
 - (b) whether, in his opinion, if the site be built upon as proposed, the stability or security of any hillside or bank, or any immoveable property thereon, would be threatened by the building, or could (be ensured by the addition of protective works.
- (2) If the said Engineer certifies that the site is not secure as aforesaid, or that the stability or security of any hillside, bank, or property would be threatened by the proposed building, or that the addition of protective works is necessary,

and if the Commissioners consider that the site ought nevertheless to be approved, or that the said protective works need not be added,

the Commissioners shall refer the matter to the Engineer appointed under section 351D, and shall deal with the application in accordance with his decision.

(3) If protective works have to be added as aforesaid to any site, the site shall not be approved until such works have been constructed and have received the written approval of the Commissioners.

[Temporary amendment of Sch. C, rule 2 (as inserted after the Sixth Schedule of this Act by s. 22 of the Dangeling Municipal Act, Ben. Act I. of 1900), in its application to Danjeeling.—For "the Municipal Engineer," read "a Government Engineer."—See s. 27 and Sch. F of the Danjeeling Municipal Act (Ben. Act I. of 1900).]

Part III.—Buildings Generally.

- 3. Every building erected or re-erected, and every material alteration made to a building, must have such architectural features as to prevent the building being, in the opinion of the Commissioners, unsightly or unsuitable to its sorroundings.
- 4. (1) Except with the special sanction of the Commissioners, no building shall be erected or re-erected so as to have more than three storeys.
- (2) When any such sanction is given, the materials and method of construction of the building must be such as may be prescribed by the Commissioners.

Level of floor.

- 5. The floor or lowest floor of every building erected or re-erected from the ground-level must be constructed at such level as will admit of—
- (a) the construction of a drain sufficient for the effectual drainage of the building, and placed at such level as will admit of the drainage being led into some drain at the time existing or projected, and

(b) there being a ventilated air-space of at least six inches in depth between the underside of the floor-joists and the ground-level.

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Building over drain.

A building shall not be placed over any drain, except with the written permission of the Commissioners.

Part IV.—Masonry Buildings and Framed Buildings generally.

Foundation.

- 7. The foundation of a masonary or framed building must rest on solid ground or rock.
- 8. (1) The projection of the bottom of the footings on each side of each wall of a masonry or framed building must be at least one-fourth of the thickness of the wall at its base.
- (2) The height from the bottom of such footings to the base of each wall must be at least two thirds of the thickness of the wall at its base.
- (3) Except where the foundation is a rock, the bottom of such footings shall not be less than three feet below the ground-level.
- (4) When a wall is built on rock, footings may be omitted if the surface of the rock is properly cleaned and stepped to receive the first course of masonry.

External and cross walls of a one-storeyed building.

- 9. The external and cross walls of a masonry or framed building of one storey must be built of—
- (a) stom or brick bedded in lime or cement mortar,
- (b) stone or brick bedded in mud mortar, or
- (c) timber or iron framing filled in with nogging, or covered with corrugated or plain iron, or planked:

Provided that, when stone or brick bedded in mud mortar is used, those portions of the walls around doors and windows, and under the wall-plates for one foot in depth, and in the foundations up to plinth-level, must be of stone or brick bedded in lime or cement mortar.

External and cross walls of a two-storeyed building.

- 10. (1) The external and cross walls of the lower storey of a masonry or framed building of two storeys must be built of—
- (a) stone or brick bedded in lime or cement mortar, or
- (b) timber or iron framing filled in with nogging, or covered with corrugated or plain iron:

Provided as follows :-- .

- (i) if any of the said exfernal walls do not support any masonry wall in the upper storey, they may be built of nogging, instead of as prescribed in clause (a);
 and
- (ii) if any of the said cross walls are intended for partitions only, and do not support any wall in the upper storey, they may be built of nogging or of timber framing planked with boards.
- (2) The external and cross walls of the upper storey of a masonry or framed building of two storeys must be built of the materials specified in clause (a) or clause (c) of rule 9.

External and cross walls of a three-storeyed building.

- (11) (1) The external and cross walls of the lowest storey of a masonry or framed building of three storeys must be built of—
- (a) stone bedded in lime or cement mortar, or
- (b) iron framing covered with corrugated iron, or filled in with nogging,

. and the external and cross walls of the storey next above the lowest storey of such a building must be built of—

(i) stone or brick bedded in lime or cement mortar, or

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(ii) timber or iron framing filled in with nogging, or covered with corrugated iron:

Provided that, if any of the cross walls in either of the said storeys are intended for partitions only, and do not support any wall in the storey above, they may be built of planked timber framing.

- (2) The external and cross walls of the topmost storey of a masonry or framed building of three storeys must be built of—
 - (1) stone of brick bedded in lime or cement mortar, or
 - (ii) timber or iron framing filled in with nogging, or covered with corrugated or plain iron, or planked.
- Party-walls of a masonry or framed building must be built of stone or brick bedded in lime or cement mortar for their full height; and, if the Commissioners so direct, must be carried up, of a thickness of not less than nine inches, above the roof, flat, or gutter to such a height as will give a distance of at least eighteen inches measured at right angles to the slope of the roof above the highest part of the roof, flat, or gutter.

Damp-proof course.

- 13. (1) Every wall of a masonry or framed building must have a damp-proof course at or above the level of the ground-floor.
- (2) Such damp-proof course may consist of sheet lead, asphalt, slates laid in cement vitrified bricks, or any other durable material impervious to moisture.

Roofs.

14. (1) The roof of every masonry or framed building must be constructed of corrugated or plain iron, lead, slates, or tiles:

Provided that, with the written permission of the Commissioners, any such roof may be constructed of shingles securely attached to a frame of iron or timber.

- (2) The rise of the roof shall not in any case be less than one-eighth of the span.
- 15. The floors of every masonry or framed building must be constructed to bear safely the maximum load to be carried, such load being taken, in the case of planked floors, as not less than sixty pounds p:r square foot, including the weight of the floor.
 - 16. (1) All beams and girders in a masonry or framed building must be supported by a breadth of brick-work, stone, or other solid substance sufficient to secure their stability.
- (2) The bearing of a beam or girder on a wall shall not, without the sanction of the Commissioners, be less than three-fourths of the thickness of the wall.
- 17. All iron posts, girders, or joists, or other iron work used for the support of any portion of a masonry or framed building, must be of such quality and strength as are approved by the Commissioners.

Part V.—Dwelling-houses.

- 18. (1) Except with the written permission of the Commissioners, no dwelling-houses. house or part thereof shall be erected, re-erected, or extended so that any external wall thereof is in any direction: 'a distance less than—
 - (a) twenty feet from any part of any adjacent building, or
 - (b) ten feet from the boundary of the holding on which the house stands, or
 - (c) four feet from the side of any public road, or
 - (d) three feet from the toe of any bank or retaining-wall
- (2) The said permission shall not be granted unless the Commissioners are satisfied that notice of the intention to apply for it has been given to the neighbouring proprietor or his agent, and shall not be refused except on sanitary or other public grounds.

• (3) If the said permission be granted, the Commissioners shall send a copy thereof, both to the applicant, and to the said neighbouring proprietor.

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- Out-houses.

 Out-houses, whether the same are to be used as dwellings or stables, or for any other purpose in connection with a dwelling-house, must build the same—
 - (a) so that they may stand in regular lines, with a free passage or way, in front of and between every two lines, of such width as the Commissioners may direct, for ventilation, and for facilitating scavenging; and
 - (b) With such and so many privies, latrines, or urinals, and such means of drainage, as the Commissioners may require; and
 - (c) at such level as will suffice for the means of drainage required by the Commissioners.

Ventilation of rooms of dwelling-house.

20. Every room in a dwelling-house-

- (a) must be so constructed that the whole of at least one side of the room either is an external wall, or abuts on a verandah, or
- (b) must have suitable and sufficient sky-lights and roof ventilation.

Size and ventilation of inhabited rooms.

21. Every room in a dwelling-house which is intended to be used as an inhabited room—

- (a) must be in every part not less than eight feet in height from floor to ceilling, or, in the case of a room in the roof, must have an average height of not less than seven feet from floor to ceiling;
- . (b) must have a clear superficial area of not less than eighty square feet; and
 - (c) must be ventilated by means of doors or windows which open directly into a verandah or the external air, and which have an aggregate opening, clear of the framing, equal to not less than one-tenth of the superficial area of the floor of the room,

Part VI — Applications for approval of sites for, and for permission to erect, re-erect, or materially alter, masonry buildings or framed buildings.

Application for approval of a masonry or framed building must be written on a printed form (to be supplied by the Commissioners free of charge), and must state the position of the site, the number assignanch other particulars as may be prescribed by the Commissioners.

- (2) the site-plan sent with such an application must be drawn to a scale of not less than one-fiftieth of an inch to a foot, must be sent in duplicate, and must show—
 - (a) the boundaries of the site;
 - (b) the position of the site in relation to neighbouring roads, hillsides, and banks;
 - (c) the angle and the character of the hillsides or banks occupied by, and abutting on, the site,
 - (d) whether the site is wooded or not;
 - (e) what spring and inoras (if any) there are on the site;
 - (1) what excavations (if any) it is proposed to make on or near the site;
 - (g) what protective works (if any) it is proposed to construct on, or for the support of, the site;
 - (h) the name of the road (if any) in which the building is proposed to be situated;
 - (1) the position of the building in relation to-
 - (i) the boundaries of the site, and

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- (ii) all adjacent roads, buildings, and premises within a distance of forty feet of the site, or
- (iii) (if there is no road within a distance of forty feet of the site) some existing or projected road;
- (k) the means of access to the building from the road;
- (1) the position, form, and dimensions of privies, urinals, drains, stables, cattlesheds, cow-houses, and other appurtenances of the building, and the inclination of such drains;
- (m) free passage or way in front of the building;
- (n) space to be left about the building to secure a free circulation of air, admission of light, and access for scavenging purposes;
- (o) the width and level of the road (if any) fn front and of the road (if any) at the rear of the building; and
- (b) such other particulars as may be prescribed by the Commissioners.
- (3) the foregoing sub-rules shall apply also in the case of applications for permission to materially alter a masonry or framed building in the manner indicated in clause (b) of section 238, in so far as the said sub-rules are capable of application to the intended alteration.
- Application to be sent and application to be sent and particulars furnished by person intending to erect, re-crect, or materially alter a masonry or framed building.

23 * (1) Every application for permission to erect or re-erect a massonry or framed building must be written on a printed form (to be supplied by the Commissioners free of charge), and must state the description of the building, its dimensions and such other particulars as may be prescribed by the Commissioners.

- (2) The plan of the building and the elevations and sections accompanying such an application must be neatly and accurately drawn to a scale of not less than one-eighth of an inch to a foot, must be fully dimensioned, and must be sent in duplicate, and the said plan must show-
 - (a) the levels and width of the foundation of the building;
 - (b) the level of the lowest floor of the building; and
 - (c) the level of all open spaces in the building or premises, and the plinth level of buildings with reference to the level at the centre of the nearest road.
- (3) The specification accompanying such an application must comprise full information as to the following particulars, namely:-
 - (i) the materials and method of construction to be used for external walls, party walls, foundations, roofs, floors, fire-places, and chimneys;
 - (ii) the manner in which roof and house-drainage and the surface-drainage of land will be disposed of;
 - (iii) the manner, if any, in which it is proposed to have the open spaces in the building or premises, and the slope to which the surface is to be made in each case:
 - (iv) the purpose for which it is intended to use the building;
 - (v) if the building is intended to be used as a dwelling-house for two or more families, or as a place for carrying on any trade or business in which more than twenty people may be employed, or as a place of public resort, the means of ingress and egress; and
 - (vi) such other particulars as may be prescribed by the Commissioners.

Explanation to clause (iv) .- If it is intended to use the building or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed, or cowhouse, the fact must be expressly stated.

^{*} For punishment under Rule 23, see s. 272E, supra.c

(4) The foregoing sub-rules shall apply also in the case of applications for permission to materially alter a masonry or framed-building, in so far as they are capable of application to the intended alteration.

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- 24. (1) The plans, elevations, and sections referred to in section 240 must be signed Signature of plans, elevations, clearly and in a prominent place by the owner of the building.
- (2) If the said documents have been prepared by an Architect or an Engineer, they may be signed by him as well as by the owner.
- 25 (1) Within thirty days after the receipt of any application under section 238 or Power to require further insection. Section 240, the Commissioners may require the applicant to furnish them with any information which has not already been given in the documents received.
- (2) If any information required under sub-rule (1) is, in the opinion of the Commissioners, incomplete or defective, they may, within thirty days after the receipt of the same, require further information to be furnished.
- (3) If any requisition made under sub-rule (1) or sub-rule (2) is not complied with within three months, the application received under section 238 or section 240, as the case may be, shall be deemed not to have been made.
- 26. (1) When the Commissioners have approved any site-plan or given permission Modification, signature, and to execute any work, any modifications which they may have directed to be made in such site-plan, or in any of the approved plans of the work shall be entered on both copies of the plan, and the copies shall be signed on behalf of the Commissioners.
- (2) One of the signed copies of each plan shall then be returned to the applicant, and the other shall be kept in the office of the Commissioners.

Part VII .- Huts.

27. Every hut abutting on a road or passage, whether public or private, must be Prohibition of projections or dropping of water over road or passage.

Constructed so as not to project over, or admit of water from the roof falling upon or injuring, the road or passage.

Part VIII - Applications for Permission to erect, re-erect, or materially alter Huts.

- 28.* (1) Every application for permission to erect, re-erect, or materially alter a hut

 Application for permission to erect, re-erect, or materially alter a hut.

 must be written on a printed form (to be supplied by the Commissioners, free of charge), and must contain a description of the site.
- (2) If it is intended to use the hut or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed, or cow-house, the fact must be expressly stated in the said application.
- 29. (1) When any application under section 244J has been received, the Commissioners to require further, instrumentation.

 Significant under section 244J has been received, the Commissioners may require the applicant to furnish them with any additional information which they may consider it necessary to obtain.
- (a) If any information required under sub-rule (1) is, in the opinion of the Commissioners, incomplete or defective, they may require further information to be furnished.
- (3) If any requisition made under sub-rule (1) or sub-rule (2) is not complied with within two months, the application received under section 244 J shall be deemed not to have been made.

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"SCHEDULE D.

[Applies of Darjeeling only.]

RULES AS TO REVETMENTS, RETAINING-WALLS, TOE-WALLS, TURFING, AND SLOPING.

(See sections 248E and 351B and Schedule A, rule 3.)

Part I.—Revetments, Retaining-walls, and Toe-walls.

- I. (1) The foundation of every revetment, retaining-wall, or toe-wall, must be taken down to original and firm soil or rock; and the bed-line must be cut at right-angles with the face of the revetment or wall.
- (2) The building of any revetment, retaining-wall or toe-wall shall not be commenced until the foundation and bed-line have been inspected and approved by the Commissioners.
- 2. (1) A revetment, retaining-wall, or toe-wall, may be made of dry rubble masonry, but must, in any case in which the Commissioners so direct, be made of lime masonry.
 - (2) No stone used shall be of greater height than its length or breadth.

Laying of stones.

- All stones used must be laid on their natural beds, and must be arranged so as to break joint as far as may be possible.
- 4 (1) One through bonding-stone or line of bonding-stones must be inserted at intervals of five feet in each course, and at points intermediate between the corresponding bonding-stones of the course below.
- (2) Any of the bonding-stones which do not extend right through the wall must overlap each other for one-third of their length.
- 5. Every revetment, retaining-wall, or toe-wall, must be built up solid to full section, and spawls or chips shall not be used for filling the courses unless their use is unavoidable.
- 6. Weep-holes must be provided at intervals of four feet horizontally and four feet vertically, beginning with the course immediately above ground-level.
- 7. (1) Where a revetment, retaining-wall, or toe-wall does not exceed twenty feet in height, and is not surcharged, the mean thickness of the revetment or wall above the footings shall not be less than one-third of the vertical height of the revetment or wall, measured from the top of the footings:

Provided that the width at the top shall in no case be less than one foot six inches, and need not in any case exceed three feet six inches.

- (2) Where a revetment, retaining-wall, or toe-wall, does not exceed twenty feet in height, and is surcharged, sub-rule (1) shall apply, the height being assumed, for the purposes of that sub-rule, to be one-and-half times the vertical height.
- (3) Where a revetment or retaining-wall exceeds twenty feet in height, detailed designs must be submitted to the Commissioners, and the sections must be such as the Commissioners may approve.

Part II .- Sloping.

8. When, in pursuance of any requisition or direction made or given by the Commissioners any slope is to be reduced, the angle to which the slope is reduced shall not be greater than 37°."]

ACT NO. I. OF 1885.

1885

The Bengal Ferries Act, 1885.

RECEIVED L.-G.'S ASSENT ON 6TH APRIL, AND G.-G'S, 15TH MAY, 1885.

An Act to regulate Ferries in Bengal.

WHEREAS it is expedient to regulate ferries within the territories subject to the Lieutenant-Governor of Bengal; It is enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the "Bengal Ferries Act, 1885."

Extent and commencement of Act. 2. It shall extend to all the territories subject to the Lieutenant-Governor of Bengal:*

And it shall come into force on such date as the Lieutenant-Governor may, by notification in the Calcutta Gazette, apoint in this behalf.

- 3. Regulation VI. of 1819 and Bengal Act I. of 1866 are hereRegulation VI. of 1819 by repealed; but all determinations, declarations, orders, and rules made, engagements entered into, and securities taken
 under such Regulation and Act, shall be deemed to be respectively
 made, entered into and taken under this Act.
- 4. Nothing in this Act contained shall apply to any ferry
 Act not to apply to municipal ferries.

 deemed or declared to be a municipal ferry
 under the provisions of the Bengal Municipal
 Act, 1884.‡

Interpretation.

5. In this Act, unless there be something repugnant in the subject or context,—

"Commissioner."

"Commissioner" means the Commissioner of a division:

"Ferry."

"ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge, a temporary bridge, and a landing stage:

"Notification."

"notification" means a notification published in the Calcutta Gasette:

‡ For Municipal Ferries.—Vide ss. 148 to 156 of the Bengal Municipal Act (Ben. Act III. of 1864).

^{*} This includes the present Presidency and Fort William in Bengal and other territories.

[†] The Act came into force on the 1st August 1885.—See Calcutta Gasette, 24th June 1885, Pt. I., p. 610.

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" Private ferries." .

"private ferries" includes all ferries other than those declared to be public ferries, or established as such, under section 6 of this Act.

PART I.

PUBLIC FERRIES.

Power to declare, establish, define, and discontinue public ferries.

- 6. It shall be lawful for the Lieutenant-Governor,* from time to time, to-
- (a) declare what ferries shall be deemed public ferries,† and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;
- (b) take possession of a private ferry and declare it to be a public ferry;
- (c) establish new public ferries where, in his opinion, they are needed;
- (d) define the limits of any public ferry; ||
- (e) change the course of any public ferry; ¶ and
- (f) discontinue any public ferry which he deems unneces-

Every such declaration, establishment, definition, change, ... discontinuance shall be made by notification:

Provided that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river on which such ferry is established, such alteration may be made, by an order in writing, by the Magistrate of the district.

Control of public ferries vested in the Magistrate of the district.

- 7. The control of all public ferries shall be vested in the Magistrate of the district. subject to the direction of the Commissioner.
- 8. The immediate superintendence of every public ferry shall be vested in the Magistrate of the district Superintendence of public in which such ferry is situated, or in such other officer as the Lieutenant-Governor may, from time to time, either by name or by official designation, appoint.

† For list of Public Ferries .- Vide the Bengal Local Statutory Rules and Orders,

^{*} In the Presidency of Fort William in Benal read "Governor in Council of Fort William in Bengal."-Vide Act VII. of 1912.

^{1912,} Vol. I., pt. VI., pp. 512-522.

‡ For list of private Ferries taken possession of.—Vide Ibid, pp. 523-537.

§ For list of Ferries established.—Vide Ibid, pp. 538-547.

§ For list of Ferries the limits of which are defined.—Vide Ibid, pp. 547-550. For list of Ferries the course of which has been changed .- Vide Ibid, p. 550. For list of Ferries discontinued .- Vide Ibid, pp. 550-554.

And such Magistrate or officer shall, except when the tolls at 1885. such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

9. The tolls of any public ferry may, from time to time, be Ferry Tolls may be leased by public auction for such term as leased by auction. the Magistrate of the district in which such ferry is situ ated may, with the approval of the Commissioner, direct

The Magistrate of the district or the officer authorized by him to conduct such auction may, for sufficient reason to be recorded. in writing, refuse to accept the offer of the highest bidder, and may, accept any other bid, or may withdraw the tolls from auction

The lessee of the tolls of every ferry which have been leased, under this section shall execute a contract Execution of contract by setting forth the conditions on which the 'tolls of such ferry are to be held, and shall give sucurity for its due fulfilment.

- 10. When the tolls of a public ferry have been duly leased, the lessee and every servant of the lessee Lessee of the tolls of a shall be deemed to be legally bound to conpublic ferry and his servants bound to conform to form to the rules made under this Act for rules. the management and control of such ferry.
- 11. On the requisition of the Magistrate of the district the person in charge of a public ferry situate Provision for the estab. lishment of subsidiary ferry. in such district shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles therefrom, such number of subsidary ferries as may seem to the Magistrate to be necessary for the public convenience; and all the provisions contained in this Act in regard to the management and control of public ferries shall be deemed applicable to any subsidiary ferry maintained under the requisition of the Magistrate.

12. All arrears due by the lessee of Recovery of arrears from lássec. 'the tolls of a public ferry on account of his lease;

Any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction; and

all sums due from the lessee on the surrender of his lease under section 14,

may be recovered from the lessee or his surety (if any) as a demand under Bengal Act VII. of 1880* or any other Act at the time being in force for the recovery of public demands.

^{*} Now see the Ben. Act III. of 1913 and B. & O. Act IV. of 1914.

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- Power to cancel lease. be cancelled at once by the Magistrate of the district in which such ferry is situated, if it shall appear to such Magistrate that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from such Magistrate.
- 14. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Magistrate of the district in which such ferry is situated of his intention to surrender such lease, and on payment of such reasonable compensation as the Magistrate may, with the approval of the Commissioner, in each case direct.
- 15. The Magistrate of the district, with the approval of the Power to make rules in Commissioner, may, from time to time, regard to public ferries. make rules* consistent with this Act—
 - (a) for the management of all public ferries within such district, and for regulating the traffic at such ferries;
 - (b) for regulating the time and manner at and in which, the terms on which, and the person by whom, the tolls of such ferries may be leased by auction;
 - (c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and
 - (d) generally to carry out the purposes of this Act:

And, when the tolls of a ferry have been leased under section 9, such Magistrate may, from time to time, with such approval as aforesaid, make additional rules consistent with this Act—

- (e) for collecting the rents payable for the tolls of such ferries;
- (f) for regulating the returns of traffic to be from time to time, submitted by the lessee of such ferries;
- (g) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge, or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained, and opened for the passage of vessels and rafts through the same; and
- (h) in cases in which the traffic is conveyed in boats, for regulating—

^{*} For a list of rules made under this section by the District Magistrates.—Vide The Bengal Local Statutory Rules and Orders, 1912, Vol. I., Part VI., pp. 584-558.

the number and kinds of such boats and their dimensions 1885. and equipment;

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the number of the crew to be kept by the lessee for each boat;

the maintenance of such boats in good condition;

the hours during which, and the intervals within which, the lessee shall be bound to ply, and

the number of passengers, animals, and vehicles, and the bulk and weight of other things that may be carried in each kind of boat at one trip;

and may, from time to time, with such approval as aforesaid, repeal or alter such rules.

Rules made under this section shall be subject to the control of the Lieutenant-Governor, and shall be published in the Calcutta Gasette in such manner as "the Lieutenant-Governor" directs, and shall thereupon have the force of law.

16. No person shall, except with the sanction of the Magistrate of the district, maintain a ferry to or from Private ferry not to ply within two miles of public any point within a distance of two miles ferry. without sanction. from the limits of a public ferry:

Provided that, in the case of any specified public ferry, "the Lieutenant-Governor"* may, by notification, reduce or increase the said distance of two miles to such extent as he thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons keeping boats to ply between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or shall apply to boats which the Magistrate of the district expressly exempts from the operation of this section.

17. Claims for compensation for any loss sustained by any person in consequence of a private ferry Claims for compensation. and what amount to be being taken possession of, or a new public awarded. ferry, or subsidiary ferry, being established under section 6 or section 11, shall be enquired into by the Magistrate of the district in which such terry is situated, who shall, with the approval of the Commissioner, award compensation to any person who may appear justly entitled thereto. Such compensation shall be calculated upon an estimate of the annual nett profit actually realized by such person from such ferry on an average of the five years next preceding such declaration, and shall in no case exceed the amount of fifteen times such annual nett profit.

In Presidency of Fort William in Bengal read "the Governor in Council of Fort William in Bengal."—Vide Act VIL of 1912.

† Read (now) ** District Magistrate."—See s. 3 (2) of the new Code of Criminal Procedure (Act V. of 1898).

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18.* Tolls, according to such rates as may, from time to time,

be fixed by the Magistrate of the district†

with the approval of the Commissioner, shall
be levied on all persons, animals, vehicles, and other things crossing
any river by a public ferry, and not employed or transmitted on
the public service:

Provided that "the Lieutenant-Governor" may, from time to time, declare that any persons, animals, vehicles, or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been leased under section 9, any such declaration, if made after the date or the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Magistrate of the district under this section.

19. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, it the Commissioner so directs, in English, in some conspicuous place near the ferry;

and shall be bound to produce, on demand, a list of the tolls signed by the Magistrate of the district of the tolls.

- 20. Except as provided by section 35, all tolls, rents, and Tolls, rents, compensation received by or on behalf of the Government, and all fines levied under this Act, shall be appropriated in the first instance towards the payment of all charges incurred in carrying out the provisions of this Act, and the surplus, if any, shall be credited to such fund as the Lieutenant-Governor may, from time to time, direct.
- 21. It shall be lawful for the Magistrate of the district* in which a public ferry is situated, with the approval of the Commissioner, from time to time, to fix rates at which any person may compound for the tolls payable for the use of such Terry.

‡ In Presidency of Fort William in Bengal, read" the Governor in Council of Fort William in Bengal."—Vide Act VII. of 1912.

^{*} Vide Indian Tolls Act (II. of 1901), s. 8. † Read (now) 'District Magistrate."—See s. 3 (2) of the new Code of Criminal Procedure (Act V. of 1808).

PART II.

1885.

PRIVATE FERRIES.

Act 1.

22. The Commissioner may, from time to time, make rules consistent with this Act for the maintenance Power to make rules.in of order, and for the safety of passengers regard to private ferries. and property, at private ferries situated in his division.

Rules* made under this section shall be subject to the control of "the Lieutenant-Governor" and shall be published in the Calcutta Gasette in such manner as "the Lieutenant-Governor"† directs, and shall thereupon have the force of law.

PART III.

PENALTIES AND CRIMINAL PROCEDURE.

Penalty for breach of provisions as to table of tolls, list of tolls, and return of traffic.

23. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 19.

or who wilfully removes, alters, or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 19,

and every lessee who neglects to furnish any return required under section 15,

shall be punished with fine which may extend to fifty rupees.

- 24. Every such lessee or other person as aforesaid asking or taking more than the lawful toll, or without Penalty for taking unauthorized toll, and for due cause delaying any person, animal, vecausing delay. hicle, or other thing, shall be punished with fine which may extend to one hundred rupees.
- 25. Every person breaking any rule made under section 15 Penalty for breach of Or section 22 shall be punished with imprirules made under sections. sonment for a term which may extend to three months, or with fine which may extendsto two hundred rupees, or with both.
- 26. Whereany lessee of the tolls of a public ferry makes default in the payment of the rent payable in Cancelment of lease on default or breach of rules. respect of such tolls, or has been convicted of an offence under section 25, or having been convicted of an

^{*} For list of Rules made under this section .- Vide the Bengal Local Statutory Rules and Orders 1912, Vol I, Pt. VI., pp 559-60.

† In the Presidency of Fort William in Bengal read "the Governor in Council of Fort William in Bengal."—Vide Act 7 of 1912.

1885. Act 1. offence under section 23 or section 24, is again convicted of an offence under either of those sections, the Magistrate of the district may, [with the approval of the Commissioner]* cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were leased.

Penalties on passengers offending.

27. Every person crossing by any public ferry who refuses to pay the proper toll, and every person—

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee, or assistant not to do so, goes or takes any animals, vehicles, or other things, into any ferry-boat, or upon any bridge at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles, or goods from any such ferry-boat or bridge on being requested by such toll-collector, lessee, or assistant to do so, or

who moors any boat, raft, or other substance to, or in any way obstructs, any part of a public ferry,

shall be punished with fine which may extend to fifty rupees.

- 28. Whoever conveys for hire any passenger, animal vehicle,
 Penalty for plying within or other thing in contravention of the propublic ferry-course without visions of section 16 shall be punished with fine which may extend to fifty rupees.
- 29. Where the tolls of any public ferry have been leased under the provisions herinbefore contained, the whole or any portion of any fine realised under section 27 or section 28 may, notwithstanding anything contained in section 20, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.
- 30. Whoever navigates, anchors, moors, or fastens any verel Penalty for rash navigation and stacking of timber. So rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain

^{*} In the Province of Bihar and Orissa the words within brackets have been omitted by B. & O. Act II. of 1914.

such vessel; raft, or timber pending the enquiry and assessment hereinater mentioned.

1885. Act 1

Power to arrest without warrant.

- 31. The police may arrest without warrant any person committing an offence against section 27 or section 30.
- 32. Every Magistrate on Bench of Magistrates trying any Magistrate may assess offence under this Act may enquire into and damage done by offender. assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 30 by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

The Commissioner may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

PART IV.

MISCELLANEOUS.

Power to take possession of the district* may take possession of all boats and other appliances on surrender or cancellation of lease.

The power to take possession of the district may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until he can make arrangements for such other boats and appliances as may be necessary, in which case the Magistrate of the district* shall pay a fair sum to the owners for the use of the said boats and appliances:

Provided that, within a week of taking such possession, the Magistrate of the district* shall be bound to give notice to the said lessee of his intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

34. When any boats or their equipments, or any materials or Similar power in cases of appliances suitable for setting up a ferry, emergency. are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles, or baggage belonging to such officers, troops, or persons,

^{*} Read (now) 'District Magistrate."—See s. 3 (2) of the new Code of Criminal Procedure (Act V. of 1898).

1885. or of any property of Her Majesty, the Magistrate of the district* may take possession of and use the same (paying such compensa-Act 1. tion for the use thereof as "the Lieutenant-Governor" may in each case direct) until such transport is completed.

35. It shall be lawful for "the Lieutenant-Governor" to order‡ that any public ferry situated in any district in which a District Board has been Management may be vested District Board. established under the provisions of the Bengal Local Self-Government Act of 1885 shall be managed by such District Board; and such District Board shall have all the powers vested in the Magistrate of the district* under this Act, except the powers specified in sections 7, 17, and 32, and "the Lieutenant-Governor"† may further order that all or any part of the proceeds of such ferry, and all or any part of the fines levied, and compensation received. under this Act in respect thereof, be paid into the District Fund.

And thereupon such ferry shall be managed, and such proceeds, fines, and compensation shall be paid, accordingly.

"The Lieutenant Governor" may, from time to time, vary or annul any order made under this section.

36. "The Lieutenant-Governor" may, from time to time, delegate, under such restrictions as he Delegation of powers. thinks fit, any of the powers conferred on him by this Act to any Commissioner or Magistrate of a district.* or to such other officer or authority as he thinks fit, by name or by official designation.

^{*} See foot note on last preceding page,

[†] In the Presidency of Fort William in Bengal read "the Governor in Council of Fort William in Bengal."—Vide Act VII. of 1912.

[‡] For orders — Vide the Bengal Local Statutory Rules and Orders, 1912, Vol. 1., Part VI, pp. 559—606.

[§] Vide Ben. Act III. of 1885.

Vide s. 52 of Ben. Act III. of 1885.

Vide Bengal Local Statutory Rules and Orders, 1912, Vol. I., Pt. VI., p 606.

ACT NO. III. OF 1885.

THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885.

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of sanitation, drainage and conservancy of villages.

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SCHEDULE I.—EXTENT OF REPEAL OF BENGAL ACT IX. OF 1880,

SCHEDULE II —EXTENT OF AMENDMENT OF BENGAL ACT IX. OF 1880.

SCHEDULE III.—NAMES OF DISTRICTS
IN EVERY SUB-DIVISION OF WHICH A
LOCAL BOARD SHALL
BE ESTABLISHED.

1885. Act 3.

ACT NO. 111. OF 1885.

The Bengal Local Self-Government Act of 1885.

RECEIVED L.-G.'s ASSENT ON THE 6TH APRIL, AND G.-G.'S, 11TH JULY, 1885.

An Act to extend the System of Local Self-Government in Bengal.

WHEREAS it is expedient to extend the system of local selfpreamble. government within the territories subject to the government of the Lieutenant-Governor of Bengal*; It is enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the Bengal Local Self-Government Act of 1885.

It shall extend to all the territories subject to the Lieutenant-Governor of Bengal* which are not included within the limits of the town of Calcutta,† or of any place or town to which the provisions of the Bengal Municipal Act, 1884,‡ have been, or may hereafter be, extended:

Commencement.

and it shall come into force in any district on such date as the "Lieutenant-Governor" may, by notification, direct.

Any notification, order, or rule, and any appointment to an office, may be made, or election held, under this Act after it shall have received the assent of the Governor-General, and shall take effect in any district on this Act coming into force therein.

2. On this Act coming into force in any district, the enact-Enactments repealed and ment specified in the first and second sheamended. dules shall, as regards such district, be repealed to the extent mentioned in the third column of the first shedule, and be amended to the extent mentioned in the third column of the second shedule.

But this repeal shall not revive any office, authority, or thing abolished by such enactment, or affect the validity of anything which has been done or suffered, or any right, title, obligations or liability which has accrued, before the commencement of this Act.

^{*}This includes the present Presidency of Fort William in Bengal and other territory.

[†] Certain words after this have been repealed by Ben. Act V. of 1908 whict Act was extended to the Eastern Bengal by Ben. Act I. of 1914.

[‡] Ben. Act III. of 1884.—See, supra.
§ In presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."—Vide Act VII. of 1912.

Office held under repealed provisions of Ben. Act IX. of 1880 to continue in existence until its abolition or confirmation by District

3. Every person holding office in any district under the repealed provisions of the Cess Act. 1880.* shall continue to hold such office until it shall be abolished, or a new appointment made in respect thereof, by the .District Board established in such district under the provisions of this Act:

1885. Aet 3.

Provided that, if, for a period of twelve months from the date on which this Act comes into force in any district, the District Board does not abolish such office, or make such appointment as aforesaid, the person holding such office shall be deemed to have been appointed to it under the provisions of this Act:

Provided, further, that, if such office shall be abolished, or a new appointment made in respect thereof, compensation pension or gratuity shall be paid from the district fund to any person not being a servant of the Government who may be deprived of such , office, and the amount of such pension or gratuity shall be calculated in accordance with any rules made under the provisions of section 138 of the Cess Act, 1880*; or, it no such rules have been made, the amount shall be calculated in accordance with the rules regulating the payment of compensation pensions and gratuities to uncovenanted servants of the Government.

Act not to come into force in cantonments without sanction of Governor. General in Council.

4. Notwithstanding anything in section 1, this Act shall not come into force in any cantonment wthout the sanction of the Governor-General in Council previously obtained.

Interpretation.

5. In this Act, unless there be something repugnant in the subject or context,—

"Commissioner."

"Commissionor" means the Commissioner of a division:

" Local authority,"

"Local authority" means any District Board, or Local Board, Joint Committee, Union Committee, or Joint Union Committee constituted under this Act:

"municipal authority" means the Commissioners of a municipality constituted under the provisions of " Municipal authority." the Bengal Municipal Act, 1884:†

P Notification."

"notification" means a notification published in the Calcutta Gazette:

"Magistrate of the district" includes any Magistrate subordinate to the Magistrate of the district, to " Magistrate of the diswhom he may delegate all or any of his trict."‡ powers under this Act:

^{*} Ben. Act IX. of 1880.—See, supra.

[†] Ben. Act Hl. of 1884.—See, supra.

^{\$} See s. 3 (2) of the new Code of Criminal Procedure (Act V. of 1898).

the term 'salaried servant of Government' does not in"Salaried servant of Go clude a retired servant of Government in receipt of a pension:

"Financial year."

"financial year" means the 'year commencing on the first day of April

"Cess year."

"cess year" means the year as fixed by the Lieutenant-Governor under the Cess Act 1880.*

"Sanitation."†

"and 'sanitation' includes water supply."

PART I.

LOCAL AUTHORITES.

CHAPTER I.

DISTRICT BOARDS AND LOCAL BOARDS.

Constitution of District Boards and Local Boards,

District Boards and Local Boards.

6. The Lieutenant-Governor shall, by notification, establish a District Board for every district.

The Lieutenant-Governor may, by notification, establish a Local Board in any sub-division, or in any two or more sub-divisions combined, and may cancel or vary any such notification:

Provided that a Local Board shall be established in every subdivision of every district mentioned in the third schedule of this. Act.‡

A District Board shall have authority, for the purposes of this Act, over the district for which it is established, and a Local Board shall have authority over such sub-division or sub-divisions as the Lieutenant-Governor & may, by notification, direct.

7. A District Board shall consist of such number of members,
Constitution of District not being less than nine, as the Lieutenant-Boards.
Governor may, by notification, fix in this behalf, and may include elected and appointed members:

Provided that, if there be no Local Board within a district, the whole of the District Board shall consist of appointed members.

‡ Certain words after this have been repealed by Ben. Act V, of 1908 which Act was extended to Eastern Bengal by Ben Act I. of 1914.

^{*} Ben. Act IX. of 1880.—See, supra.
† This definition of sanitation was added by Ben. Act V. of 1908 which Act was extended to the Eastern Bengal by Ben. Act I. of 1914.

[§] In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."—Vide Act VII. of 1912.

1885. Act 2

When a Local Board has been established in any district, such Local Board shall be entitled to elect such proportion of the whole of the District Board as the Lieutenant-Governor* shall, from time to time, direct:

Provided that, when Local Boards have been established throughout the whole area of any district, not less than one-half of the whole District Board (exclusive of the Chairman, if appointed under section 22, "section 23A or section 29"†) shall be elected by such Local Boards:

Provided also that no person shall be elected a member of the District Board unless he be qualified for election as a member of some Local Board in the district under the provisions of section 13 of this Act.

The appointed members (if any) shall be such persons and officials as the "Commissioners" thall, from time to time, either by name or by official designation, appoint:

Provided that not more than one-half of the appointed members shall be salaried servants of the Government.

- 8. A Local Board shall consist of such number of members,

 Constitution of Local not being less than six, as the Lieutenant
 Governor* may, by notification, fix in this behalf.
- Lieutenant-Governor to make rules for qualification of persons entitled to vote for election of members of Local Boards.

 1 Two-thirds of the members of each Local Board established in a district mentioned in the third schedule of this Act shall be elected under such rules, consistent with this Act, as the Leiutenant-Governor* may make for each Local Board in respect of the qualifications required to entitle any person to vote for a candidate for election, and in respect of the time and mode of election:

Provided that every male person of the full age of twenty-one years resident within the area under the authority of a Local Board who is qualified in one of the manners following, that is to say:—

- Qualification of electors. (1) is a member of a Union Committee within such area;
- (2) has, during the year immediately preceding such elec-
 - (a) paid a sum of not less than one rupee on account of road-cess in respect of lands situated, either wholly or in part, within such area;
 - ‡[(b) paid license-tax in respect of a trade, dealing, or industry carried on within such area;] or

^{*} See foot-note (§) previous page.

^{• †} The word or words within quotations have been substituted or added by Ben. Act V. of 1908, which Act was extended to Eastern Bengal by Ben. Act I. of 1914.

[†] The words and figures within brackets has been repealed in Presidency of Fort William in Bengal by Ben. Act 1. of 1914.

- (c) been possessed of a clear annual income from any source of not less than two hundred and forty rupees;
- (3) being a member of a joint undivided family, one of the members of which is qualified for election as in this section hereinbefore provided, is a graduate or licentiate of any university, or holds a certificate as a pleader or mukhtar:

shall be entitled to vote at an election of members of such Local Board.

Power to appoint members of District or Local Board if prescribed proportion not duly elected.

*10. If, within the time prescribed by rules made by the "Lieutenant-Governor "† under this Act, the prescribed proportion of elected members. of any District Board or Local Board is not duly elected, the Commissioner may appoint members to make up that proportion.

11. One-third of the members of each Local Board established Appointment of members of Local Boards by "Commissioner" to take effect on result of election.

in a district mentioned in the third schedule of this Act shall be appointed by the "Commissioner"* immediately after the result of the election mentioned in section 9 shall have been notified to him, and such appointment shall be deemed to have been made on the date on which such election takes place.

Proportionate number of members how to be ascertained if the whole number is not evenly divisible by two or by three.

12. In cases where the whole number of members is not evenly divisible by two or by three, the one half or one-third, as the case may be, shall be ascertained by taking the number next below the whole number which is evenly divisible by two or by three as the number to be divided.

Qualification for election as members of Local Boards established in districts mentioned in schedule.

13. The Lieutenant-Governor† shall make rules consistent with this Act, defining the qualifications elections as members of candidates for of each Local Board established in a district mentioned in the third schedule of this Act:

Provided that every male person, of the full age of twentyone years, who is qualified in one of the manners following, that is to say:-

> (1) is a member of a Union Committee within the area under the authority of such Local Board;

The s. 10 and word within quotations in s. 11 have been substituted by Ben, Act V. of 1908 which Act has been extended to Eastern Bengal by Ben. Act 1 of 1914.

† In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal .- Vide Act VII. of 1912.

(2) has, during the year immediately preceding such election, had his fixed place of abode within "the sub-division for which such Local Board has been established."*

Act 3.

- (a) paid a sum of not less than five rupees on account
 of road-cess in respect of land situated, either
 wholly or in part, within the area under the authority of such Local Board;
- [(b) paid a license-tax of not less than twenty rupees in respect of a trade, dealing, or industry carried on within the area under the authority of such Local Board;] † or
- (c) been possessed of a clear annual income from any source of not less than one thousand rupees;
- (3) being a member of a joint undivided family, one of the members of which is qualified for election under clause (1) or clause (2) (a) or (b) of this proviso, is a graduate or licentiate of any university, or holds a certificate as a pleader or mukhtar;

shall be deemed to be qualified for election as a member of such Local Board.

14. It shall be lawful for the Lieutenant-Governor, by notification, from time to time, to add the name of add names of districts, not already included, to schedule.

14. It shall be lawful for the Lieutenant-Governor, by notification, from time to time, to add the name of any districts to the list included in the third schedule of this Act.

From and after the date of such notification, such di strict shall, for the purposes of this Act, be deemed to be a district mentioned in such schedule.

15. The members of a Local Board, established in a district not Construction of Local Boards in districts not mentioned in the third schedule of this Act, shall be appointed by the "Commissioner,"* tioned in schedule either by name or by official designation:

Provided that not more than one-half of the whole number shall be salaried servants of the Government:

Provided, further, that the Lieutenant-Governor! may, at any time in regard to any Local Board, direct that two-thirds of the members of such Local Board shall be elected under the provisions of sections 9, 10, and 13, and that one-third shall be appointed der the provisions of section 11.

^{*} The words within quotations have been substituted by Ben. Act V. of 1908, which Act has been extended to Eastern Bengal by Ben. Act I. of 1914.

[†] The clause (b) to s. 13 has been repealed in the Presidency of Fort William in

Bengal by Ben. Act I. of 1914.

‡ In the Presidency of Fort William in Bengal read "Go vernor in Council of Fort William in Bengal."—Vide Act VII of 1912.

[§] The district of Mymensing has been added to the list included in the third schedule.— See notification dated 4th September, 1889, in Calcutta Gasette, 11th idem. Pt. IB, page 191.

- 16. [Term of office of members of District Roard and Local 1885. Board .- Repealed by Ben. Act (V. of 1908). That Act has been ? Act 3. extended to Eastern Bengal by Ben. Act I. of 1914.
 - 17. A member of a District Board or Local Board may resign by notifying in writing his intention to do Resignation of members. so, in the case of a member of a District Board to the "Commissioner,"* and in the case of a member of a Local Board to the "District Board"* and on such resignation being accepted by the "Commissioner" or "District Board," respectively, the member shall be deemed to have vacated his office, and shall not be re-elected until the expiration of the term for which he would have held the office but for his resignation.
 - 18. (1) The "Commissioner" may remove any member of a District Board "or Local Board or Union Powers of Lieutenant-Gov-Committee "*ernor to remove members.
 - (a) if he refuses to act, or becomes incapable of acting, or is declared insolvent;†
 - (b) if he has been declared by notification to be disqualified for employment in the public service;
 - (c) if he, without an excuse sufficient in the opinion of the "Commissioner,"* absents himself from six consecutive meetings of the Board:
 - (d) when he is a salaried servant of the Government, if his continuance in office is, in the opinion of the "Commissioner,"* undesirable.
 - *" (2) Any member who is removed under sub-section (1) may appear to the Lieutenant-Governor, whose decision shall be final."
 - "18A.1 The Lieutenant-Governor may remove any member of a District Board, Local Board, or Union Power of Lieutenant-Go-Committee who is convicted of any such verdor to remove members after proceedings in Crimioffence, or is subjected by a Criminal Court nal Court. to any such order, as in the opinion of the Lieutenant Governor formed after due inquiry, unfits him to be a member."
 - "19.‡ (1) When the place of an elected member of a District Board or Local Board becomes vacant by his Filling of casual vacanresignation, removal, or death, a new men ber shall be elected, in accordance with rules made by the Lieute. nant-Governor under this Act, to fill the place:

^{*} The words within quotations have been substituted by Ben. Act V. of 1908, which Act has been extended to Eastern Bengai by Ben Act I. of 1914.

[†] Certain words after this have been repealed by Ben. Act V. of 1908, which bes

been extended to Eastern Bengal by Act I. of 1914.

‡ S. 19 has been substituted and ss. 18A, 19A and 23A have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

Provided that, if, within the time prescribed by such rules, no new member is duly elected, the Commissioner may appoint a new member to fill the place.

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- (2) When the place of an appointed member of a District Board or Local Board becomes vacant as afor esaid, the Commissioner may appoint a new member to fill the place.
- (3) No act of any District Board or Local Board, or of its officers, shall be deemed to be invalid by reason only of the fact that the number of members of the Board, at the time of the performance of the act, was less than the prescribed number."
- "19A.* (r) A member of a District Board or Local Board who

 Term of office of member of District Board or Local shall, subject to sections 17, 18, 18A of this Board.

 Act, and unless the Lieutenant-Governor†

 otherwise directs, continue to be a member of the Board while he

 continues to hold the office to which such designation refers.
- (2) A member of a District Board or Local Board who has been elected or appointed under section 19 shall, subject as aforesaid, hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.
- (3) In cases not provided for by sub-section (1) or sub-section (2) of this section, the term of office of a member of a District Board or Local Board shall be fixed by the Lieutenant-Governor† by rules, which may provide for the retirement of members by rotation.
- (4) An outgoing member of a District Board or Local Board may, if otherwise qualified, be re-elected or re-appointed."
- 20. Every District Board shall be a body corporate by the name Incorporation of District of "the District Board of [name of district]," Boards. and shall have perpetual succession and a Common Seal, with power to acquire and hold property, both moveable and immoveable, and, subject to any rules made by the Lieutenant-Governor† under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of this Act, and may sue, and be sued, in its corporate name.
- 21. The several District Boards and Local Boards constituted under this Act shall come into existence at such time as the Lieutenant-Governor† may, by notification, fix in this behalf.

^{*} S. 19 has been substituted and ss. 18A, 19A and 23A have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben Act I of 1914.

† In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal"—Vide Act VII, of 1912.

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Chairman and Vice-Chairman.

Aot 3.

22. Every District Board shall be presided over by a Chairman Chairman of District who shall be appointed by the Lieutenant-Board. Governor*, or, should the Lieutenant-Governor* in any case so direct, be elected "either by name or by virtue of his office,"† by the members of such Board from among their own number, subject to his approval.

Vice-Chairman of District Board,

23. Every District Board shall, from time to time, elect one of its members to be Vice-Chairman.

- "23A.‡ If any District Board fails to elect a Chairman or ViceAppointment of Chairman Chairman within the time prescribed by or Vice-Chairman of District Board on failure to elect.

 The company of District Chairman within the time prescribed by rules made by the Lieutenant-Governor* under this Act, the Lientenant-Governor*

 may appoint a Chairman or Vice-Chairman, as the case may be."
- 24. [Ierm of office of Chairman and Vice-Chairman of District Board].—Repealed by Ben. Act (V. of 1908). That Act has been extended to 1 astern Bengal by Ben. Act 1. of 1914.
- 25. Every Local Board shall be presided over by a Chairman Chairman of Local Board who shall be elected "either by name or by virtue of his office"† by the members from among their own number, subject to approval by the "Commissioner;"† or the Local Board may, at a meeting attended by not less than two-thirds of its members, request the "Commissioner"† to appoint a Chairman.

If the Local Board fails to elect such Chairman as aforesaid within a period of one month from the time prescribed for such election by any rules made by the Lieutenant Governor under this Act, or within such extended time as the "Commissioner"† may in his discretion allow for such election, the "Commissioner"† shall appiont such Chairman.§

- "26.|| (1) Every Local Board shall, from time to time, within a Vice-Chairman of Local Board.

 Vice-Chairman of Local period prescribed by rules made by the Ligutenant-Governor* under this Act, elect one of its members to be Vice-Chairman.
- (2) If any Local Board fails to elect a Vice-Chairman within such period, the Commissioner may appoint a Vice-Chairman.

^{*} In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."—Vide Act VII. of 1912.

[†] The words within quotations have been substituted by Ben. Act V. 1908, which has been extended to Eastern Bengal by Ben. Act I. 9f 1914.

[‡] S. 19 has been substituted and ss. 18A 19A and 23A have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

§ The last paragraph of this section has been repealed by Act V. of 1908.

Ss. 26, 29 and 29A have been substituted and s. 26A has been added by Ben. Act V. of 1908 which has been extended to Bastern Bengal by Ben. Act I. of 1914.

Leave of absence to Chairman or Vice-Chairman of District or Local Board.

"26A.* A District Board or Local Board may grant leave of absence to their Chairman or Vice-Chairman for any period not exceeding three months in any one year."

- 27. A Chairman of a District Board or Local Board may resign by notifying in writing his intention to do Resignation of Chairman and Vice-Chairman of Disso "ih the case of a Chairman of a District trict Board or Local Board. Board, to the Lieutenant-Governor and, in the case of a Chairman of the Local Board, to the Commissioner; and, on such resignation being accepted by the Lieutenant-Governor or Commissioner, as the case may be,"† shall be deemed to have vacated his office. A Vice-Chairman of a District Board or Local Board may resign by notifying in writing his intention to do so to the Board, and, on such resignation being accepted, shall be deem ed to have vacated his office.
- 28. The Lieutenant-Governor may remove any Chairman of a District Board or Local Board from his office Removal of Chairman and Vice-Chairman of District if he refuses to act, or becomes incapable Board or Local Board. of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor formed after due enquiry, unfits him to be Chairman or, on the application of the Board, if he persistently neglects his duty as Chairman.

A District Board or Local Board may remove its Vice-Chairman from his office if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Board formed after due enquiry, unfits him to be a Vice-Chairman, or if he persistently neglects his duty as Vice-Chairman.

- "29.* (1) If a Chairman of a District Board dies, resigns, is removed, or avails himself of leave granted Casual vacancies in office under section 26A, the Lieutenant-Governor of Chairman or of Vice-Chairman of District or may appoint a new Chairman, or may direct ·Local Board. that, within a period prescribed by rules made by the Lieutenant-Governor under this Act, a new Chairman be elected by the members of the Board from among their own number, subject to hixapproval.
- (2) If a Chairman of a Local Board or a Vice-Chairman of a District Board or Local Board dies, resigns, is removed, or avails himself of leave granted under section 26A, the Board shall, at a special meeting held for the purpose within a period prescribed by rules made by the Lieutenant-Governor under this Act, elect from

has been extended to Rastern Bengal by Ben Act I. of 1914.

Ss. 26, 29 and 29A have been substituted and s. 26A has been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben Act I. of 1914. † The words within quotations have been substituted by Ben. Act V.of 1908 which

1885. Act 8.

among its members a new Chairman or Vice-Charman, as the case may be.

- (3) If any District Board or Local Board fails to elect a new Chairman or Vice-Ch airman within the prescribed period, the Lieuetenant-Governor (in the case of a District Board) or the Commissioner (in the case of a Local Board) may appoint a new Chairman or Vice-Ch aiman, as the case may be.
- "29A.* (1) The term of office of an elected Chairman or Vice-Term of office of Chair. Chairman of a District Board or Local Board man and Vice-Chairman. appointed Vice-Chairman of a or of an District Board or Chairman or Vice-Chairman of a Local Board, shall, subject to sections 27 and 28 of this Act, be the residue of his term of office as a member of the Board.
- (2) The term of office of an appointed Chairman of a District Board shall, subject as aforesaid, be one year from the date of his appointment; but he may be reappointed on the expiration of that term.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2) the term of office of a Chairman or Vice Chairman appointed or elected to fill a casual vacancy consequent upon the grant of leave under section 26A shall expire upon the return from leave of the person whose office he was appointed or elected to fill.
- (4) Every appointed Chairman of a District Board shall be deemed to be a member of the Board during his term of office."

Power to Local Government to control appointments made by Commis-sioner under preceding sections of this chapter.

[29B. Notwith standing anything contained in any of the foregoing provisions of this chapter, every appointment to any District or Local Board, as the case may be, made thereunder by the Commissioner; shall be subject to the administrative control of the Local Government.]†

Foint Committees.

30. A District Board may join with any other District Board or with any municipal or cantonment authority, Joint Committees. or with more than one such Board, or municipal or cantonment authority, in constituting out of their respective bodies a Joint Committee for any purpose in which they are. jointly interested, and in delegating to any such Joint Committee any power which might be exercised by either or any of the Boards or authorities concerned, and may, from time to time, frame rules as to the proceedings or any such Joint Committee, and as to the

^{*} Ss. 26, 29 and 29A have been substituted and s. 26A has been added by Ben. Act V. of 1908 which has been extended ro Eastern Bengal by Ben Act I. of 1914 t S. 29B has been added by Ben, Act I. of 1914 and is in force in Presidency of Fort William in Bengal.

conduct of correspondence relating to the purpose for which the Joint Committee is constituted.

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Conduct of Business.

31. Minutes of the proceedings at each meeting of a District Record and publication. Board or Local Board shall be drawn up and of proceedings. recorded in a book to be kept for the purpose, and shall be signed by the Chairman of the meeting, and shall be published in such manner as the Lieutenant-Governor may, from time to time, direct, and shall, at all reasonable times and without charge be open to the inspection of any person resident within, or owning or holding land within, the jurisdiction of such Board.

A copy of every resolution passed by a District Board at a meeting shall, within three days from the District Board or Local Board how to be treated.

Magistrate of the district* for transmission to the Commissioner.

A copy of every resolution passed by a Local Board at a meeting shall, within three days from the date of the meeting, be forwarded to the District Board, and to the Magistrate of the district.*

- 32. "Any District Board, with the sanction of the Commis-Power to make rules as sioner and subject to the control of the to business and affairs. Lieutenant-Governor, and any Local Board, with the sanction of the District Board and of the Commissioner and subject to the control of the Lieutenant-Governor; "† may, from time to time, make rules as to—
 - (a) the time and place of its meetings, the business to be transacted at meetings, and the manner in which notice of meetings shall be given;
 - (b) the conduct of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of meetings;
 - (c) the custody of the Common Seal and the purposes for which it shall be used;
 - (d) the division of duties amongst its members;
 - (e) the powers to be exercised by the Chairman or Vice-Chairman, or hy sub-committees or members to whom particular duties are assigned;
 - (f) the persons by whom receipts shall be granted for money received under this Act;

^{*} Read (now) "District Magistrate."—See s. 3 (2) of the new Code of Criminal Procedure (Act V, of 1898).

[†] The words within quotations have been substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

- (g) the duties, appointment, "leave, leave allowance, and punishment (including suspension and removal)"* of the officers and servants of the Board; and
- (h) other similar matters;

and may, "with the like sanction and subject to the like control "* from time to time, repeal or alter such rules.

"All rules made under this section, and all orders repealing or altering any such rules, shall be published in such manner as the Lieutenant-Governor may direct; and, so far as they are consistent with this Act and with any rules made by the Lieutenant-Governor hereunder, shall, upon such publication have the force of law." *

Establishments.

33. Every District Board, subject to the provisions hereinafter contained may, from time to time, determine District Board may apand appoint the establishment to be employpoint establishments and fix salaries. ed by it, or by any Joint Committee constituted under section 30, "or by Education Committee referred to in section 65B"* and may fix the salaries to be paid to such establishment:

Provided-

- (1) that no appointment, the monthly salary of which amounts to one hundred rupees or more, shall be created or abolished without the approval of the Commissioner, and that every nomination to, and dismissal from, such an appointment shall be subject to confirmation by the Commissioner;
- (2) that the agregate salaries and allowances in any one financial year of the establishment employed by any District Board for the purpose of heading (D) of Part III. of this Act shall not, without the sanction of the Lieutenant-Governor,† exceed twenty per centum on the total amount available for expenditure by such Board upon public works during the financial year;
- (3) that every District Board shall conform to any rules made by the Lieutenant-Governort under this Act regarding the qualifications of candidates for employment.

34.1 [Rules regarding leave of absence and absentee allowances to officers.]

Eastern Bengal by Ben. Act I. of 1914.

^{*} The words within quotations have been substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

† In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."—Vide Act VII. of 1912.

‡ S 34 has been repealed by Ben. Act V. of 1998, which has been extended to

A District Board may, from time to time, with the Pensions and gratuities to be paid out of the District Fund.

Sanction of the Commissioner and subject to the control of the Lieutenant-Governor,† make rules for pensions and gratuities to be granted and paid out of the District Fund to its establishment, and for the grant and payment therefrom of extraordinary pensions and gratuities to the families of deceased employes, and may, with the like sanction, and subject to the like control, repeal, add to, or alter such rules.

1885. Act 3.

- "35A. ‡A District Board may, from time to time, with the sanction of the Commissioner and subject to the control of the Lieutenant-Governor,†
 - (a) for the creation and management of a Provident Fund for its several establishments;
 - (b) for compelling members of its establishments to make contributions to such Fund;
 - (c) for supplementing such contributions by grants from the District Fund; and
- (a) for the payment of moneys jout of such Provident Fund; and may, with the like sanction and subject to the like control, repeal, add to, or alter such rules."
- 36. Every Union Committee may, from time to time, determine union Committee may appoint the establishment to be employed by it, and may fix the salaries to be paid to such establishment:

Provided that no appointment, the monthly salary of which amounts to ten rupees or more, shall be created without the consent of [the District Board].*

CHAPTER II.

UNION COMMITTEES.

Operation of chapter.

38. The Lieutenant-Governor† may, by order in writing, constitute any village or group of villages into a Union; and may prescribe for such Union

^{*}S. 35 and words within brackets have been substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

[†] In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."—Vide Act VII. of 1912.

[‡] S. 35A and words within quotations have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

the number of members of which the Union Committee shall consist. Such number shall not be less than five or more than nine.

It shall be lawful for the Lieutenant-Governor* from time to time to vary or annul such order.

- 39. Save as is hereinafter provided, such number shall be
 Election of members of elected from among the residents of the
 Union Committees. union, in accordance with rules made by the
 Lieutenant-Governor* under this Act, and shall constitute the Union
 Committee of such Union.
- 40. If the electors of any Union fail to elect the full number of
 Appointment on failure members prescribed for the Committee of such Union, the Commissioner may appoint the remainder.
- 41. Notwithstanding anything in this Act contained, it shall

 Appointment in substitube lawful for the Lieutenant-Governor* to
 tion of election. direct, by order in writing, for reasons to be
 stated in such order, that any Union Committee shall consist, either
 wholly or in part, of members appointed by the Commissioner.
- "41A† (1) Every Union Committee shall, from time to time, Chairman of Union Comelect one of its members to be Chairman of the Committee.
- (2) The election of any person to be Chairman of a Union Committee shall be subject to the approval of the District Board.
- (3) If a Chairman of a Union Committee be not elected within the period prescribed in this behalf by rule made under clause (c) of section 138 of this Act, the District Board shall appoint a member of the Committee to be Chairman."
- 42. The term of office of the members of a Union Committee

 Term of office of members shall be two years from the date of their election or appointment, but shall include any period which may elapse between the expiration of the said two years and the date of the next subsequent election or appointment, not being an election or appointment under the next succeeding section.

At the expiration of such term such members may be re-elected or re-appointed.

43. When the place of an elected or appointed member a Filling of casual vacan. Union Committee becomes vacant by the resignation or death of such member, a new member shall be elected or appointed, in the manner hereinbefore provided, and shall hold office until the person whose place he fills

^{*} In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."—Vide Act VII. of 1012.

[†] S. 41A has been added and the words within quotations, have been substituted dy Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

would regularly have gone out of office, and shall then go out of office, but may be re-elected or re-appointed:

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Provided that no act of the committee or of its officers, or of the committee in meeting shall be deemed to be invalid by reason only that the number of the committee, at the time of the performance of such act, was less than the prescribed number.

44. Any Union Committee may, from time to time, with the Joint Union Committees any other Union Committee or Committees in constituting out of their respective bodies a Joint Union Committee for any purpose in which they are jointly interested, and in delegating to any such Joint Union Committee any power which might be exercised by either or any of the Union Committees, and may, from time to time, frame rules as to the proceedings of any such Joint Committee, and as to the conduct of correspondence relating to the purpose for which the Joint Union Committee is constituted.

It shall be lawful for "the District Board"* to associate not more than two of its members with any Joint Union Committee constituted under this section.

PART II.

FINANCE.

GENERAL.

45. The Lieutenant-Governor† may, by notification, direct that Lieutenant-Governor may direct that funds of existing local bodies shall be vested in any local bodies shall be vested in any local authority constituted under this Act, immediately upon such local authority being constituted.

CHAPTER I.

46. A District Board, on or before the day prescribed in the District Board to fix rate of road-cess annually.

under this Act, shall hold a meeting for the purpose of fixing the rate at which the road-cess shall be levied in the district during the ensuing cess year:

Provided that the rate at, which the road-cess is levied when this Act comes into force in such district shall not be reduced without the sanction of the Lieutenant-Governor.

^{*} The words within quotations have been substituted by Ben. Act V. of 1908 which has been extended to Eastern Ber gal by Ben. Act I. of 1014.

has been extended to Eastern Bergal by Ben. Act I. of 1914.

† In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."—Vide Act VII of 1912

[†] The words within quotations have been substituted for the words "such district," by Act I, of 1903.

Estimates, reports, and statements of District Board to be submitted to Commissioner.

47. Every District Board shall submit to the Magistrate of the district, for transmission to the Commissioner, on or before the day prescribed in the rules made by the Lieutenant-Governor* under this Act,-

- (1) a statement of the requirements and an estimate of the probable expenditure of the District Board for the ensuing financial year,
- (2) a report of its proceedings,
- (3) an account of its receipts and expenditure for the past financial year,

and from time to time?

such other reports and accounts as the Commissioner may require.

The Magistrate of the district, when he is not Chairman of the Board, shall, on or before the day prescribed in the rules made by the Lieutenant Governor* under this Act, signify in writing to the Board for his approval or dispproval of the statement of requirements and estimate When he disapproves of the statement of requirements and estimate on the ground that the expenditure on salaries, works, or other objects proposed therein appears to be insufficient or excessive, or that any particulars contained therein appear to be erroneous, defective, or improper, he shall state the nature of his objection. The Board shall then consider his objection, and may modify the statement of requirements and estimate, or signify in writing its reasons for adhering to such statement and estimate; and the Magistrate of the district shall thereupon forward the statement of requirements and estimate to the Commissioner.

48. The Commissioner may either approve of the estimate as Power of Commissioner it stands, or approve of it after making such as to estimates alterations therein as may seem to him fit, or may cause it to be returned to the Board for such modifications as he may think necessary, and, when such modifications have been made, the estimate shall be re-submitted for ratification to the Commissioner:

Provided that the Commissioner shall not make, and shall not require the District Board to make, otherwise than with its own consent, any such alterations as may have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the District Board for expenditure during the financial year.

† "Explanation.—Alterations or modifications may be made or directed by the Commissioner under this section on any of the grounds mentioned in the penultimate paragraph of section 47."

† Explanation to s. 48 and proviso to s 50 have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

^{*} In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."—Vide Act VII. of 1912.

49. Any estimate prepared and approved as hereinbefore

Estimates may be amend provided may, with the approval of the ed or revised.

Commissioner, be amended or revised at any time by the District Board.

1885 Act 3

- 50. It shall be lawful for a District Board, subject to the pro-District Boards may raise visions of any law relating to the raising of loans, and may form a loans by local authorities for the time being in force, from time to time, to raise loans for the purpose of carrying out any of the provisions of this Act, and to guarantee the payment of interest on such loans, and to form a sinking fund:
- * "Provided that no loan shall be raised for the purpose of constructing and maintaining a railway or tramway under the provisions of section 80 unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose, and in favour of which a majority of not less than two-thirds of the members of the District Board have voted."
- 51. Every Local Board shall submit to the District Board anEstimates and audit of nually, on or before such date as the District accounts of Local Boards. Board may appoint, a statement of the requirements and an estimate of the probable expenditure of the Local Board for the ensuing financial year, and shall submit, as often as the District Board may require, accounts of its receipts and expenditure.

The District Board may approve such estimate, or may make such alterations therein as it thinks fit.

The District Board shall make arrangements, subject to the approval of the Commissioner, for the examination and audit of accounts submitted to it under this section, and may direct the publication of such accounts.

^{*} Explanation to s. 48 and proviso to s. 50 have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

1885.

CHAPTER II.

Act 3.

THE DISTRICT FUND.

- 52. There shall be formed for each district a fund to be called, the "District Fund," and there shall be Constitution of District Fund. placed to the credit thereof—
 - (1)* the balance of the District Road Fund of the after payment of the expenses mentioned in section 109 of the Cess Act, 1880,† as amended by this Act;
 - [(1a) all sums received under any loan raised under section 50. 1
 - (2) all sums levied within the district as fines, penalties, or otherwise under this Act;
 - [(3) all sums directed by notification under section 31 of the Cattle Trespass Act, 1871, to be placed to the credit of the Fund] ‡
 - (4) all receipts in respect of public ferries within, or on the boundary of, the district which have been placed under the management of the District Board under the provisions of the Bengal Ferris Act, 1885;
 - (5) all receipts in respect of any schools, hospitals, dispensaries, railways, tramways, or other buildings, institutions or works, which may have been constructed by, vested in or placed under the control and administration of, a District Board under Part III. of this Act;
 - "(5a) all receipts accruing within the district from tolls or leases under Part III., heading D (1), of this Act."¶
 - (6) all sums which may be alloted to the District Board from provincial revenues by the Lieutenant-Governor** for any of the purposes mentioned in Part III, of this Act, or for any other purpose;

In Bihar and Orissa—

⁽a) for clause (1) the following clause has been substituted by B. & O. Act I. of 1016-

⁽¹⁾ The proceeds of the local cess

⁽b) For the words from "the balknoe of the District Road Fund" (vide the last portion of clause 7) to "under a separated head" the following shall be substituted:-"The proceeds of the local cers shall be placed to the credit of the District Fund under such separate heads as the Local Government may from time to time determine."-Vide B. & O. Act 1. of 1916

[†] Ben. Act IX of 1880.—See supra.

[‡] Clause (1a) to s 52 and clause 3 to s. 52 have been added and substituted respectively by Ben Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914

⁶ Act I. of 1871.

Ben. Act I. of 1885, s. 35.—See, supra.

T Clause 5a to s 52 and the words within brackets in ss. 52 and 53 have been added by Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

** in the Presidency of Fort William in Bengal read "Governor's Council of Fort

William in Bengal."-Vide Act VII. of 1912.

(7) all sums contributed to the District Board by local bodies 1885 or private persons.

Act 3.

The balance of the District Road Fund mentioned in clause (1) of this section shall be placed to the credit of the District Fund under a separate head.]*

The District Fund shall be vested in the District Board, and the balance standing to the credit of the fund District Fund to be vested in Board. shall be kept in such custody as the Lieutenant-Governor, from time to time, directs.

- 53. The District Fund; [subject to the provisions of section 109 of the Cess Act, 1880\ as amended by Application of District this Act,]* shall be applicable to the following objects, and in the following order:—
 - || Firstly.—To the payment of any sums which the District Board may be liable to pay as interest upon loans raised by it under section 50 for the purposes of this Act, , and to the formation of a sinking fund, when required.
 - Secondly.—To the payment of any sums which the District Board may, under this Act, from time to time, have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication within the district, or between such district and other districts.
 - Thirdly.—To the payment of such percentage as the Lieutenant-Governor† may, from time to time, direct, towards the cost of audit, and towards the cost of establishments in any office of account, or in any treasury:
 - Provided that the total amount, which any District Board may be required to pay on this account, shall not in any year exceed two per centum on the whole amount of District Fund for such year.

‡ These words have been omitted in Bihar and Orissa - Vide B. & O. Act I. of 1916.

§ Ben. Act 1880

In Bihar and Orissa the following shall be inserted :-

Firstly.—To the payment of the costs of establishments entertained and the expenses

incurred by the Collector under s. 91 of the Cess Act, 1880.

Secondly.- To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred or for which he may have become liable, in the course of the proceedings for the assessment and collection of the local cess under the Cess Act, 1880,

and the clauses from firstly to eighly shall be renumbered in order clauses thirdly to tenthly, respectibely.

Proviso (3) shall be omitted.—Vide B. & O. Act I. of 1916.

^{*} Clause 5a to s. 52 and the words within brackets in ss. 52 and 53 have been added by Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I of 1914. † In the Presidency of Fort William in Bengal read Governor in Council of Fort William in Bengal."-Vide Act VII. of 1912.

Fourthly.—To the payment of the salaries of the establishments employed by the District Board for the purposes of this Act, and of any pensions and gratuities granted under section 3 and section 35, [and of any grants made for supplementing contributions by members of such establishments to any Provident Fund created under section 35A,]* and to the payment to the Government of such percentage as the Lieutenant-Governor† may, from time to time, direct, on the salaries of such establishments in consideration of the Government undertaking to pay the leave and pension allowances of such establishments.

" Fifthly.—To the payment of—

- (a) expenses incurred by the District Board in-
 - (1) the construction, repair, and maintenance of any works which may become vested in, or be placed under the control and administration of, such Board under Part III. of this Act;
 - (11) the acquisition, by purchase or otherwise, of offices for the use of the District Board, or of a house and land for the residence of the District Engineer, or the acquisition of land for, and the construction of, such offices or house; and
- (iii) the performance of duties imposed, and the exercise of powers conferred, by this Act;
- (b) advances granted to members of the establishments of the District Board for the purpose of enabling them to acquire or construct residences for themselves;
- (c) any contribution made by the District Board under Part III. of this Act; and
- (d) any sums assigned by the District Board to a Local Board or Union Committee under this Act."
- Sixthly.—To the payment, at such rates as the Lieutenant-Governor† may direct,—
 - ("(a) of travelling expenses incurred by delegates of the District Board in attending meetings convened under the rules made by the Lieutenant Governor† in persuance of sub-section (4) of section 1 of the Indian Councils Act, 1892,‡ for the purpose of recommending a person to be nominated as a Member of the Lieutenant Governor's Council;

^{*} Clause 5a to s. 52 and the words within brackets in ss. 52 and 53 have been added by Act V. of 1908 which has been extended to Esstern Bengal by Ben. Act I. of 1914.

† In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."—Vide Act VII of 1912

‡ Stat. 55 & 56 Vict. o 14.

(b) of travelling expenses incurred by members of the Dis- 1885. trict Board or any Local Board in attending meetings of the District Board or Local Board or meetings of a Act 3. . Committee or Joint Committee; and

- (c) in such cases, if any, as the Lieutenant-Governor* may direct, of travelling expenses incurred by members of the District Board or any Local Board in performing journeys for carrying out other objects of this Act;
- (d) of the expenses of any of the poorer inhabitants of the district for journeys to and from any hospital established in any part of British India for the treatment of special diseases."] †
- Seventhly.—To the payment of expenses incurred by the District Board under section 80 of this Act.
- *Lighthly.*—To investment in any local debenture loans issued by the Government of India, or by any municipal authority or local authority, for the construction of public works which may directly improve the means of communication within the district, or between such district and other districts:

Provided-

- (1) that [except as is provided in section 99A]‡ no sum shall be expended from the District Fund in the construction or any channel for the purposes of irrigation,
 - or for the purposes of drainage connected with any irrigation-works in charge of public officers,
 - or for the improvement or maintenance of any waterchannel on which tolls are levied, when no portion of the proceeds of such tolls is paid into the District
- (2) that no part of the District Fund shall be applied to the construction, repair, or maintenance of any road within any municipality which has been, or may hereafter be, constituted under the Bengal Municipal Act, 1884,§ unless such road shall have been expressly excluded from the operation of the said Act under section 30 thereof,
- ["(3) that the application of the balance of the District Fund mentioned in clause (1) of section 52 of this Act

§ Ben. Act III. of 1884.—See, supra.

^{*} In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."-Vide Act VII. of 1912.

[†] Clause 5a to s. 5a and the word within brackets in ss 52 and 53 have been added by Act V of 1908 which has been extended to Eastern Bengal by Ben. Act I of 1914. † The portions within brackets and clause (3) to s. 52 and s. 53A have been added by Act V. of 1908 which has been extended to Eastern Bengal by Act I of 1914.

to any object other than those referred to in section rog of the Cess Act, 1880,* as amended by this Act, shall be subject to such rules as the Lieutenant-Governor† may prescribe."]‡

["53A. If any deviation from the provisions of this Act, or of

Temporary or accidental deviations from provisions relating to crediting or application of District Road Fund.

any rule made hereunder (or of section 109 of the Cess Act, 1880,* as amended by this Act, relating to the crediting or application of the balance of the District Road Fund mentioned in clause (1) of section 52 of this

Act), § is shown, to the satisfaction of the Lieutenant-Governor,† to have been of temporary duration or of an accidental character, he may cause a declaration to be made to that effect;

and such deviation shall thereupon be deemed to be valid notwithstanding any of the provisions hereinbefore referred to."]‡

Accounts of District Fund how to be kept and published.

54. Account-books of the District Fund shall be kept by an officer to be appointed by the District Board.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter, and published in such manner as the Lieutenant-Governor† directs, and any person resident in, or owning or holding land in, the district, may, at all reasonable times, inspect any such account without payment of a fee.

A similar account showing the income of the District Fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesaid.

Finance Committee.

55. Every District Board shall appoint a Finance Committee consisting of so many members as it thinks fit.

It shall be the duty of such Committee to prepare the statements, estimates, and accounts required for submission under section 47, and generally to superintend all matters connected with the finances and accounts of the District Board.

* Ben. Act 1X. of 1880.

[†] In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal"—Vide Act VII. of 1912

[†] The portions within brackets and clause (3) to s. 52 and 53A have been added by Act V of 1908 which has been extended to Eastern Bengal by Act I. of 1914.

in s. 53A of this Act for the words and figures from "or of s 109 of the Cess Act, 1880" to "s. 52 of this Act," the words "relating to the crediting of the local cess to the District Fund or the application thereof as part of such fund," shalk be substituted in Bihar and Orissa—Vide B & O. Act I. of 1916.

The Finance Committee shall at all times, when required so to 1885. do, produce its accounts for audit by any officer who may be appointed by the Lieutenant-Governor* in that behalf.

Act 3.

CHAPTER III.

THE UNION FUND.

- 56. There shall be formed for each Union a fund to be called the "Union Fund," and there shall be placed Constitution of Union Fund. to the credit thereof-
 - (1) all sums directed by notification under section 31 of the Cattle Trespass Act, 1871,† to be placed to the credit of the Fund;]‡
 - (2) all sums assigned thereto by the Lieutenant-Governor* or District Board, whether as a contribution towards the cost of making village-roads or otherwise;
 - (3) all other sums received by the Union Committee in the execution of this Act.

The Union Fund shall be vested in the Union Committee, and Union Fund to be vested the balance standing to the credit of the in Union Committee. fund shall be kept in such custody as the Lieutenant-Governor,* from time to time, directs.

57. The Union Fund shall be applicable Application of Union Fund. to the following objects, and in the following order:-

- (1) to the payment of establishments employed, and expenses incurred, by the Union Committee for the purposes of this Act;
- (2) to the payment of the expenses incurred by the Union Committee in respect of the duties imposed, and powers conferred, upon it under Part III. of this Act, and of any expenses that may be incurred through its default in carrying out any of such duties.
- 58. Account-books of the Union Fund shall be kept by an Accounts of Union Fundhow officer to be appointed by the Union Comto be kept and published mittee.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced,

^{*} In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."-Vide Act VII of 19.2. + Act l. of 1871.

[†] The words within brackets have been added by Act V. of 1908 which has been extended to Eastern Bengal by Act I. of 1914.

1885. shall be prepared immediately after the close of each quarter and published in such manner, as the Lieutenant-Governor* directs. and any person resident in, or owning or holding land in, the Union may, at all reasonable times, inspect any such account without payment of a fee.

A similar account showing the income of the Union Fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesa id.

Copies of the quarterly and yearly a ccounts shall be submitted to [the District Board.]†

PART III.

Duries and Powers of Local Authorities.

CHAPTER I.

DUTIES AND POWERS OF DISTRICT BOARDS.

Operation of provisions included under headings A to E.

59. The provisions included under the headings A to E (both inclusive) of this Chapter shall be in force as regards every District Board, unless and until the Lieutenant-Governor* shall otherwise direct.

Operation of provisions included under headings E to I.

60. No provision included under the headings E to I (both inclusive) of this chapter shall apply to any District Board, unless and until it has been expressly extended thereto by notification by the Lieutenant-Governor.*

A.-Pounds. .

61.1 Every District Board shall perform such functions as may be transferred to it by notification under Pounds. section 31 of the Cattle Trespass Act, 1871.

oB.—Education.

62. Subject to any rules made by the Lieutenant-Governor* under this Act, every District Board shall Primary and middle under public be charged with, and be responsible for, sch ols management. the maintenance and management of all

§ Act I. of 1871.

^{*} In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."-Vide Act VII. of 1912

[†] The words within brackets have been added by Act V of 1908 which has been extended to Eastern Bengal by Act I. of 1914

[‡] Ss 61, 63 and portions of s. 65 within brackets have been substituted and Ss. 64A, 65A and 65B have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Act I. of 1914.

primary and middle schools under public management within the district, the construction and repair of all buildings connected therewith, the appointment (subject to the provisions of section 33) of all masters and assistant masters thereof, and the payment of the salaries of such masters and assistant masters:

Act 8

Provided that nothing contained in this section shall be held to apply to schools for the education of Europeans and Eurasians.

Other schools.

- 63.* The District Board may, subject to any rules made by the Lieutenant-Governort under this Act,-
- (a) with its own consent, be charged with, and made responsible for, the maintenance and management of any other schools or class of schools within the district; or
- (b) make grants in aid of any such schools whether the same be under public or private management.
- 64. It shall be lawful for the Lieutenant-Governort to declare that the maintenance and management of High English schools. any High English school under public management, situated within a town which has been or may hereafter be constituted a municipality under the Bengal Municipal Act, 1884, ‡ shall be entrusted to a Joint Committee, consisting partly of members delegated by the Commissioners of such municipality and partly of members delegated by such District Boards as may be named in the order.

Every order issued under this section shall specify the number of members to be delegated, and the propertion of the cost of maintenance of the school to be provided, by each of the local authorities and the municipal authority named therein.

Every Joint Committee appointed under this section shall, in respect of any such school, have the same powers, and be subject to the same liabilities as are by this heading conferred and imposed on District Boards.

64A. The District Board may, subject Provision, maintenance and management of stu- to any rules made by the Lieutenant-Govdents' hostels. ernort under this Act,-

(a) provide buildings to be used as students' hostels in connection with schools for the maintenance and management of which the Board is responsible under

^{*} S. 63 has been substituted for the original by Ben. Act V. of 1908, This Act was

extended to Eastern Bengal by Act 1 of 1913.

† In the Presidency of Fort William in Bengal read "Governor in Council of Fort William in Bengal."—Vide Act VII of 1912.

[‡] Ben. Act III. of 1884

[§] Ss. 61, 63 and portions of s. 65 within brackets have been substituted and Ss. 64A, 65A and 65B have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Act I. of 1914.

- section 62 or section 63, and maintain and manage such hostels; or
- (b) make grants in aid of any school referred to in section 63 or section 64, or any other school, college, or educational institution, for the purpose of providing buildings to be used as students' hostels in connection with such school, college, or institution, or for the purpose of maintaining and managing such hostels, or
- [(c) establish scholarships for the furtherance of technical or any other special form of education:

Provided that, save with the sanction of the Local Government, no such scholarship shall be tenable at any school or institution not situated within the area under the authority of the District Boards].*

- 65. It shall he lawful for the Lieutenant-Governor,† from time Primary schools under to time, to transfer to a District Board such funds as he may deem necessary for expenditure on—
 - ["(a) the improvement of any schools or class of schools within the district under private management; or
 - (b) the maintenance or improvement of any schools or class of schools maintained and managed by the District Board; or
 - (c) the provision of buildings to be used as students' hostels in connection with any school referred to in section 64, or in clause (a) or clause (b) of this section, or any other school, college, or educational institution, and the maintenance and management of such hostels"].‡

And, subject to any rules made by the Lieutenant-Governor† under this Act, the Board shall be charged with, and be responsible for, the proper distribution of such funds.

65A.‡ The hostels referred to in sections 64A and 65 may be situated either within the area directly subject to the authority of the District Board, or within any place or town lying within that area in which the Bengal Municipal Act, 1884, § is for the time being in force.

of Education Committees.

65B.‡ (1) Every District Board shall appoint, to be members of an Education Committee,—

^{*} Clause c) of s 64A has been added by Ben. Act l. of 1914 and is in force in Presidency of Fort William in Bengal.

[†] See foot-note (†) p 897, supra.

† Ss 61 63 and portions of s. 65 within brackets have been substituted and

Ss. 64A, 65A and 65B have been added by Ben. Act V. of 1308 which has been

extended to Eastern Bengal by Act I. of 1914.

Ben. Act III. of 1884.

· (a) · the Deputy Inspector of Schools;

1885.

(b) three members of the District Board; and

Act 3.

- (c) not more than three residents of the district not being members of the District Board.
- (2) The appointment of any person referred to in clause (c) of sub-section (1) to be a member of an Education Committee shall be subject to the approval of the Commissioner;

and, when his appointment has been so approved, such person shall, for the purposes of sub-clause (b) of clause Sixthly of section 53, be deemed to be a member of the District Board.

- (3) It shall be the duty of an Education Committee, subject to the control of the District Board and to any rules made by the Lieutenant-Governor* under section 138,—
 - (i) to superintend all matters connected with the finances, accounts, maintenance, and management of all schools maintained by the District Board, and
 - (ii) to determine the conditions to be complied with when grants are made by the District Board in aid of other schools.
- (4) Nothing in the foregoing sub-sections shall apply to schools referred to in section 64.

C .- Medical.

District Board to have control and administration of public charitable dispensaries or hospitals within the district.

District Board to have to time, to direct, by notification, that any public charitable dispensary or hospital within a district shall be under the control and administration of the District B and the District Board shall thereupon be

charged with the control and administration thereof, and the construction and repair of all buildings connected therewith.

The Lieutenant-Governor* may, at any time, vary or annul any order made under this section.

67. A District Board may provide, for the use of the inhabitants

District Board may es. of the district, dispensaries, hospitals, or
tablish and maintain dispensaries and hospitals. temporary places for the reception of the
sick, and, for that purpose, may—

itself build such dispensaries, hospitals, or places of reception; or

contract for the use of any such dispensary, hospital or place of reception, or of any part thereof; or

enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of the district, on payment of such annual or other sum as may be agreed on.

^{*} In the Presidency of Fort William in Bengal, read "Governor in Council of Fort William in Bengal."—Ville Act VII. of 1912

[A District Board may also provide for—

- (a) the training and employment of compounders, midwives, and veterinary practitioners; and
- (b) the promotion of free vaccination;]*
- 68. Two or more District Boards may, with the approval of the Commissioner or Commissioners, combine Two or more District Boards may combine to in providing a common dispensary, hospital, establish dispensaries and or place for the reception of the sick, and, hospitals. with the like approval fix the proportions of the cost thereof to be borne by them respectively.

District Board may contribute to cost of maintenance of dispensary or hos-

pital outside district.

Power to provide temporary supply of medicine and

medical assistance.

69. A District Board may, with the approval of the Commissioner, contribute such annual or other sum as may be agreed on towards the cost of the maintenance of any dispensary or hospital which is situated outside the district, but is habitually used by the inhabitants of the district.

70. A District Board may, with the approval of the Commissioner, provide, or contract with any person to provide, a temporary supply of medicine and medical assistance for the poorer inhabitants of the district.

District Board to conform to rules made by Lieutenant-Governor.

71. Every District Board, in exercising powers vested in it by the five last preceding sections, shall conform to any rules made by the Lieutenant-Governort under this Act.

72.‡ District Board to submit return of births and deaths to Magistrates

L.—Public Works.

73.1 From and after the establishment of a District Board in any district, all roads, bridges, channels, Transfer to District Board^S buildings, and other property, moveable or of roads and other property of District Road Committee. immoveable, held by, or under the control and administration of the District Road Committee or any branch committee in such district for the purposes of the Cess Act, 1880,§ shall for the purposes of this Act, | but subject to the provisions of Chapter III. of l'art III. thereof],* be under the control and administration of such District Board.

74. It shall be lawful for the Lieutenant-Governor,† from time. to time, to direct that any road, bridge Government may place other property under Dischannel, building, or other property, movetrict Boards. able or immoveable, which is vested in Gov-

Portions of ss 67 and 73 have been added by Ben. Act V. of 1508 which has been extended to Eastern Bengal by Ben. Act 1 of 1914. † See foot-note (†) p. 897, supra.

^{\$} S. 72 and previso to s. 73 have been repealed by Ben. Act V. of 1908 which has. been extended to Eastern Bengal by Ben Act I. of 1914. 6 Ben. Act IX. of 1860.—See, supra.

ernment, and which is situated within a district, shall, with the consent of the District Board of such district and subject to such exceptions and conditions as the Lieutenant-Governor* may make and impose be placed under the control and administration of the District Board for the purposes of this Act and thereupon such road, bridge, channel, building, or other property shall be under the control and administration of the District Board, subject to all exceptions and conditions so made and imposed and to all charges and liabilities affecting the same.

1886. Act 3

- 75. Every road, building, or other work constructed by a Dis-Works constructed by trict Board from the District Fund shall be District Board to be vested in the District Board by which it has been constructed.
- . 76. A District Board may agree with the person in whom the District Board may, with property in any road, bridge, tank, ghat, consent of owners, take over and repair works. well, channel, or drain is vested, to take over the property therein, and, after such agreement, may declare, by notice in writing put up thereon or near thereto, that such road, bridge, tank, ghat, well, channel, or drain has been transferred to the District Board.

Thereupon the property therein shall be vested in the District Board, and such road, bridge, tank, ghat, well, channel, or drain shall thenceforth be repaired and maintained out of the District Fund.

- 77. Every District Board shall, at such times and in such form

 District Board to submit as the Commissioner may direct, submit a schedules of public works schedule of all public works subject to the control of, or vested in, such District Board.
- 78. It shall be the duty of every District Board to provide for District Board to repair the repair and maintenance of roads, bridges, and maintain works. water-channels, and other works for directly improving communications which have been taken charge of by the District Board under this Act, or towards which it may have agreed to contribute; and for the construction of new roads, bridges, water-channels, and other means of communication.
- [78A. The District Board may, with the sanction of the Com-Power to turn, divert, dis. missioner, turn, divert, discontinue, or percontinue, or close road. manently close any road which is under the control and and administration of, or is vested in, the District Board.]†

Miscellaneous improve-

79. It shall be lawful for a District Board to take measures for, or to contribute towards—

^{*} See foot note (†) p. 897. supra.
† S. 78A has been added by Ben. Act V. of 1908 which has been extended to astern Bengal by Ben; Act I. of 1914.

1885 A ct 3. the construction, repair, and maintenance of any works which may directly imp rove the means of communication within the district or between the district and other districts;

the planting of trees by the roadside; and

the construction and maintenance of any means and appliances for improving the supply of drinking water, or for providing or improving drainage.

80. It shall be lawful for a District Board, with the sanction of District Board may con. the Lieutenant-Governor,* either s ingly or in struct and maintain railways or any other local authority, to construct and maintain within, or partly within and partly without, its own district, a railway or tramway under the provisions of any law for governing the construction of railways or tramways† for the time being in force in Bengal, and to do all lawful acts which may be necessary in that behalf.

81. It shall be lawful for a District Board, with the sanction of the Lieutenant Governor, * to subscribe to any debenture loan raised by the Governor maintenance of any railways or tramways.

81. It shall be lawful for a District Board, with the sanction of the Lieutenant Governor, * to subscribe to any debenture loan raised by the Governor ment of India, or by any municipal authority or local authority, for the construction or maintenance of any railway or tramway which, in the opinion of such District Board, is likely to be of direct benefit to the district.

B2. It shall be lawful for the District Board, with the sanction District Board may of the [Governor-General in Council],‡ guarantee interest on capital experded on works of communication.

The property of the [Governor-General in Council],‡ from time to time, to guarantee the payment from the district fund of such sums as it shall think fit as interest on capital expended on any railways, tramways, or other works which may directly improve the means of communication within the district, or between the district and other districts.

[Provided that no application for the said sanction shall be made, in the case of a railway or tramway, unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose, and in favour of which a majority of not less than two-thirds of the members of the District Board have voted.]†

83. It shall be lawful for a District Board, from time to time,
District Board may undertake construction, repair,
and maintenance of Government buildings.

to undertake, on behalf of the Government,
and upon such conditions as may be agreed upon the construction, repair, and maintenance of any public building or other work
which is the property of the Government:

* See foot-note (†) p. 897, supra.

[†] As to tramways, see Ben. Act III. of 1883. ‡ Portions of ss. 82 and 86 within brackets have been added by Ren. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

Provided that the cost of such construction, repair, or maintenance shall be defrayed by the Government.

1885. Act 3.

- 84. Subject to the provisions of section 23; and to any rules

 District Board to appoint made by the Lieutenant-Governor* under this Act, every District Board shall appoint a properly qualified person to be its engineer, and such and so many subordinate officers under his orders as it may think necessary.
- 85. It shall be the duty of the District Engineer to prepare all Duties of District Engiplans, designs, specifications, and estimates which the District Board may require, to carry out such works as it may direct, and to conform generally to all rules that may be made by the District Board under section 32, or by the Lieutenant-Governor* under section 138.
- Powers of Boards under sections 78 and 79 shall be subject to any rules made by the sections 78 and 79 to be subject to rules for approval of plans, designs, specifications, and estimates, land the power of the District Board to make any contribution under section 79 shall be subject to any rules made by the Lieutenant-Governor* under this Act, prescribing conditions precedent to the making of such contribution] †

D (1).—Tolls on Eridges.

Power of District Board to establish toll bars and levy tolls. 86A.‡ The District Board, with the sanction of the Lieutenant-Governer, * may establish a toll-bar—

- (i) on any bridge in the district which has, after the date of the commencement of the Bengal Local Self-Government (Amendment) Act, 1908, been constructed or purchased out of the District Fund, or to the cost of the construction or purchase of which contribution has, after the said date, been made out of the District Fund; or
- (ii) on any road-way or foot-way of a railway-bridge which has, after the said date, at the instance of the District Board, and out of the District Fund, been so constructed or widened as to allow the passage of persons, vehicles, or animals; or
- (iii) at any place in the district, adjacent to any bridge referred to in clause (i) or clause (ii), at which tolls may conveniently be levied;

^{*} See foot-note (†) p. 897, supra

⁺ Portions of ss. 82 and 86 within brackets have been added by Ben. Ac V. of 1908 which has been extended to Eastern Bengal by Ben. Act 1 of 1914.

[‡] Ss. 86A to 86M have been added by Ben. Act V. of 1908 which has been extended to Bastern Bengal by Ben. Act I. of 1914.

and may levy tolls at such toll-bar on persons, vehicles, and animals passing over such bridge, road-way, or foot-way:

Provided as follows:-

- (1) no toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering—
 - (a) the expenses incurred by the District Board in constructing, purchasing, contributing to, or widening, such bridge, road-way, or foot-way,
 - (b) the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, and in recouping itself for the partial or complete loss of receipts in respect of any public ferry referred to in clause (4) of section 52, when such loss results in either case from the construction of such bridge, or the construction of widening of such road-way or foot-way,
 - (c) interest on such expenses, at the rate of four fer centum per annum, and
 - d) the capitalised value of the estimated cost to District
 Board of maintaining such bridge, roadway, or footway, and of renewing it if it requires periodical
 renewal;
- (2) no toll-bar shall be established, or tolls levied, on or in respect of any bridge, road-way, or foot-way, the cost or estimated cost of which, as indicated in clauses (a), (b), and (d) of proviso (1), was or is less than ten thousand rupees.
- 86B.* The District Board may grant a lease, for any period not exceeding three years, of any toll-bar established under section 86A of this Act.
- Procedure where two District Boards of two adjacent districts, Procedure where two District Boards have contributed towards the cost of the contributed towards the cost of the construction or widening of a bridge, road-way, or foot way, have received sanction under section 86A of this Act to the establishment of a toll-bar, the tolls shall be levied or granted in lease by such District Board as the Lieutenant-Governor† may, in his order according saction, direct; and the proceeds of such tolls, or of the lease thereof, shall be adjusted between the two District Boards according to rules made in this behalf by the Lieutenant-Governor.†

^{*} Ss. 86A to 86M have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914 † See foot-note (†) p. 897, supra.

86D.* (1) The following persons and things shall be exempted from payment of tolls at any toll-bar established under section 86A of this Act, namely:—

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- (a) ·Government stores and persons in charge thereof;
- (b) police-officers and other public officers travelling on duty,
 District Board officers so travelling, persons in the
 custody of any of the officers aforesaid, property
 belonging to or in the custody of any of the officers
 aforesaid, and vehicles and animals employed by any
 of the officers aforesaid for the transport of such
 persons or property;
- (c) conservancy carts and other vehicles and animals belonging to the District Board and persons in charge thereof; and
- (d) any other class of persons or things which may be exempted by order of the District Board.
- (2) In granting a lease of any toll-bar, the District Board may stipulate that any servants and property of the District Board and any other persons and things shall be exempted from payment of tolls thereat.
- Rates of totls.

 Rates
- (2) Such rates shall be subject to the sanction of the Commissioner, and may, from time to time, be varied with the like sanction.
- 86F.* (1) A table of such tolls, legibly printed or written in Table of tolls to be hung the vernacular of the district, shall be hung up in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.
- (2) In default of compliance with sub-section (1) of this section, the toll-collector, or the lessee of the toll-bar, as the case may be, shall be liable to fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first during which the default continues.
- Power to compound for compound with any person for a certain sum tolls.

 to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the rates specified under section 86E of this Act.

^{*} Ss. 86A to 86M have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

86H.* Any toll-collector or lessee of a toll-bar established

Power of toll-collector or under section 86A of this Act may refuse to allow any person to pass through the toll-bar until the proper toll has been paid.

Fenalty for refusing to of toll, refuses to pay the toll, shall be liable to fine which may extend to fifty rupees.

86K.* If resistance is offered to any person authorized under
Pelice officers to assist.

this Chapter to collect rolls, any Policeofficer whom he may call to his aid shall be
bound to assist him; and such Police-officer shall, for that purpose, have the same powers as he has in the exercise of his ordinary
police-duties.

86L.* If any person authorized under this Chapter to collect

Penalty for taking untolls demands or takes any higher tolls than the tolls authorized under this Chapter, he shall be liable to fine which may extend to hifty rupees, and, in default of payment, to imprisonment for a term which may extend to one month.

86M.* (1) When a toll-bar has been established and tolls have
District Board to publish been levied, under section 86A of this Act,
expenses, etc., of toll-bars. in respect of any bridge, road-way, or footway, the District Board shall, at the end of each financial year,
publish, by causing to be posted up at their office, an abstract
account showing—

- (a) the amount of the expenses incurred by the District Board in constructing, purchasing, contributing to, or widening the bridge, road-way, or foot-way;
- (b) the amount of the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, and in recouping itself for the partial or complete loss of receipts in respect of any public ferry referred to in clause (4) of section 52, when such loss results in either case from the construction of such bridge, or the coustruction or widening of such road-way or foot-way;
- (c) the amount of interest which has accrued due on such expenses;
- (d) the capitalised value of the estimated cost to the District Board of maintaining the bridge, road-way, or foot-way, and of renewing it if it requires periodical renewal; and
- (e) the amount which has been received from the profits of the said toll-bar since its establishment.

^{*} Ss. 86A to 86M have been added by Ben, Act V. of 1908 which has been extended to Eastern Bengal by Ben, Act I. of 1914.

(2) As soon as such expenses, interest, and capitalised value, have been recovered as aforesaid, such toll-bar shall be removed. and tolls shall no longer be levied in respet of such bridge, roadway, or foot-way.

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E.—Sanitation.

- 87. It shall be the duty of every District Board, subject to any rules made by the Lieutenant-Governor under District Board to provide for sanitation. this Act, to provide, so far as may be possible, for the proper sanitation of its district, and to incur such expenses, or undertake such liabilities, as may be necessary in that behalf.
- 88. A District Board may, with the approval of, and subject to such limits of cost as shall be imposed by, General powers for supplying district with water. the Commissioner, provide any place within its district with a proper and sufficient supply of water, and for this purpose may-
 - (1) construct, repair, and maintain water-works, wells, or tanks, and do any other necessary acts;
 - (2) take on lease or hire any water-works, and purchase any water-works, or any water, or right to take or convey water, either within or without its district; and
 - (3) contract with any person for a supply of water.
- 88A.* A District Board may, with the sanction of the Lieutenant-Governor, contribute such annual or Power to contribute towards cost of municipal other sum as may be agreed upon towards water-supply. the cost of—
 - (a) the construction, repair, and maintenance, under the provisions of the Bengal Municipal Act, 1884, of water-works, wells, or tanks within the district, or
 - (b) taking measures under the said Act for the prevention of plague in the district:

Provided that no application for such sanction shall be made unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose, and in favour of which a majority of not less than two-thirds of the total number of members of the District Board have voted.

Public streams, channels, water-courses, tanks, reservoirs, springs, and wells, to be under control of District Board

89. All streams channels, water-courses, tanks, reservoirs, springs, and wells situated within the district. and not being private property or under the control of any officer of the Government, shall, for the purposes of this Act, be under the control and administration of the District Board.

^{*} S. 86A has been added and the s. 91 has been substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

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District Board may set apart tanks, parts of rivers streams, or channel for drinking and culinary pur-

90. The District Board may, by an order duly published at such places, and in such manner, as it may deem fit, set apart convenient tanks, parts of rivers, streams or channels situated within the district, and not being private property or under the control of any officer of the Government,

tor the supply of water for drinking and for culinary purposes; and, from the date of publication of such order, such tanks, parts of rivers, streams, or channels shall be held to be public springs or reservoirs.

Constitution and functions of Sanitation Committees and appointment of Sanitary Inspector.

- 91.* (1) Every District Board shall appoint, to be members of a Sanitation Committee, not more than five, not less than three, members of the Board.
- (2) The Civil Surgeon of the district shall be a member ex officio of the Sanitation Committee of his district.
- (3) It shall be the duty of a Sanitation Committee, subject to the control of the District Board, and to any rules made by the Lieutenant Governor under section 138, to initiate and supervise works connected with the sanitation of the district, and to exercise such of the powers of the District Board as may be deligated to it in acc ordance with such rules.
- (4) The District Board shall also appoint a properly qualified person to be its Sanitary Inspector, and, subject to the provisions of section 33, fix the salary of such Sanitary Inspector and the details of the establishment subordinate to him.
- (5) The Lieutenant-Governor may, for reasons which may to him appear to be sufficient, exempt any District Board, wholly or partially, from the operation of this section.

F.—Vaccination.

District Board to have supervision of vaccinators within their districts.

- 92. Every District Board shall, within its district, be charged with the appointment, payment, management, and supervision of all public vaccinators.
- 93. Every District Board shall appoint a properly qualified person to be Inspector of Vaccination within District Board to appoint Inspectors of Vaccination. its district, and shall, subject to the provisions of section 33, fix the salary to be paid to such person.

Every Inspector of Vaccination appointed under this section shall, within the district, exercise the powers, and perform the duties, assigned to the Superintendent of Vaccination under the Bengal Vaccination Act, 1880.†

† Ben. Act V. of 1880.—See, supra.

^{*} S. 88A has been added and the s. 91 has been substituted by Ben. Act V. of 1908 " which has been extended to Eastern Bengal by Ben. Act I. of 1914.

District Board to have powers of Magistrate in district to which the Vaccination Act extends.

94. In every district to which the Bengal Vaccination Act, 1880,* has been, or may hereafter be, extended, the District Board shall have the Act 3. powers of the Magistrate of the district† under section 25 of the said Act.

- 95. The Commissioner may, with the sanction of the Lieutenant-Governor, make rules consistent with Commissioner to make this Act, and with the Bengal Vaccination rules for guidance of District Boards. Act, 1880,* for the guidance of every District Board in the exercise of the powers conferred under the three last preceding sections, and may, from time to time, with the like sanction, repeal or alter such rules.
- 96. The four last preceding sections, so far as is consistent with the tenor thereof, shall be read with, and Act to be read with the Bengal Vaccination Act. form a part of, the Bengal Vaccination Act, 188o.*

G-Census.

97. It shall be lawful for the Commissioner, with the sanction of the Lieutenant-Governor, at any time to Commissioner may direct require a District Board to take an account District Board to take a cenof the number of persons who, at the time of taking such account, shall be within the district of such District Board:

Provided that no part of the cost incurred in taking such account shall be charged upon, or be defrayed out of, the District fund.

98. Every District Board which shall be required to take an account under the last preceding section Powers for taking census. shall, in taking such account, conform to any rules made by the Lieutenant-Governor under this Act, and to the provisions of any Act for the time being in force for regulating the taking of a census.

H.-Famine [and Distress].1

- 99. It shall be lawful for a District Board, subject to such limit of expenditure as may be prescribed by the District Board may take Commissioner, to take such measures as it relief measures in case of famine. thinks fit for the relief of famine [or serious distress] t within its district, and for that purpose to-
 - (1) open and maintain such relief works as may be necessary:

† Read (now) "District Magistrate," See s. 3 (2) of the new Code of Criminal Procedure (Act V. of 1898).

† The words within brackets in ss. 99 & 100, and s. 99A have been added by Ben.

Ben. Act V. of 1880.—See, supra.

Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

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- (2) open and maintain such temporary hospitals, poor-houses orphanages, and places for the gratuitous distribution of food as may be necessary;
- (3) employ such extra medical or other assistance as may be necessary;
- [(4) distribute such gratuitous relief, in the form of doles of money or food, as may be necessary].*
- "99A.* It shall be lawful for a District Board, with the sanction Irrigation works for relief of the Commissioner, to incur expenditure of famine or scarcity. on any local irrigation work which may appear to it to be necessary for the purpose of preventing, or mitigating the effects of, famine or scarcity within its district:

Provided that no such expenditure shall be incurred unless such irrigation work has been sanctioned by the Lieutenant-Governor as a relief work in accordance with rules made under this Act."

1. - Miscellaneous.

- 100. It shall be lawful for a District Board, with the approval Miscellaneous powers of of the Commissioner, and [subject to such District Board. rules and restrictions as the Lieutenant-Governor may, from time to time, prescribe]* under this Act, to—
 - Staging bungalows and as it thinks sit, staging bungasarais.

 Staging bungalows and as it thinks sit, staging bungalows and sarais for the use of travellers, and charge such sees for the use of such bungalows and sarais as it thinks sit:
 - Provided that such fees shall in no case exceed the amount prescribed by the Commissioner;
 - (2) offer rewards, upon such scale as may be approved by

 Rewards for destruction of noxious animals.

 Rewards for destruction of noxious animals within the district;
 - (3) hold, within [the]* district, from time to time, fairs and

 Fairs and exhibitions.

 Plements, or local manufactures, and incur such expenditure, and charge such fees in connection therewith, as may, from time to time, be approved by the Commissioner:
 - [(3a) establish and maintain veterinary dispensaries for Veterinary dispensaries. the reception and treatment of horses, cattle, and other animals, and charge such fees for the use of such dispensaries.

The words within brackets in ss. 99 & 100, and s. 99A have been added by Ben. Act V. of 1908, which has been exte nded to Eastern Bengal by Ben. Act I. of 1914.

saries as may from time to time be approved by the Commissioner:

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- (3b) appoint and pay qualified persons to prevent and treat Treatment of diseases of diseases of horses, cattle, and other animals;
- (3c) provide for the improvement of the breed of horses, cattle, or asses, and for the Breeding of animals. breeding of mules:
- (3d) make grants in aid of measures for improving agriculture or for carrying out any of Grants in aid of agriculthe objects specified in clause tural and veterinary improvements. (3a) or clause (3c); and]*
- (4) undertake and carry out any other local work likely to promote the health, comfort, or otherwise Works not convenience of the public, and provided for. not otherwise provided for by this Act.

CHAPTER II.

DUTIES AND POWERS OF LOCAL BOARDS.

101. The Lieutenant-Governor, t or, subject to his control, a District Board, may direct that, within the Duties of Local Board. area subject to the authority of a Local Board, any matter placed under the control and administration of the District Board under this Act shall be wholly or partly transferred to the control and administration of the Local Board, with adequate funds for the purposes of such control and administration.

A Local Board, as the agent of, and subject to the control of, the District Board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under this section.

It shall be the duty of the District Board to enforce the responsibility imposed on a Local Board by this section.

102. Except as otherwise provided by this Act, a Local Board shall not incur expenses, or undertake liabi-Limits on expenditure of lities, to any amount exceeding the limit Local Board imposed by the District Board.

103 t It shall be the duty of the Local Board to procure and submit, in such form as the District Board Local Board to supervise and centrol Union Commitmay prescribe, all such reports, returns, and statistics as the District Board may, from time to time, require.

^{.*} The words within brackets in ss. 99 & 100, and s. 99 A have been added by Ben. Act V, of 1908, which has been extended to Eastern Bengal by Ben. Act I. of 1914.

* See foot-note (†) p. 897 supra.

‡ Certain words before it have been repealed by Act V. of 1908 which has been

extended to Eastern Bengal by Ben. Act 1. of 1914.

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CHAPTER III.

DUTIES AND POWERS OF UNION COMMITTEES.

- 104. A Union Committee, as the agent of, and subject to the Union Committee to be control of, the "District Board," shall, within subordinate to Local Board. the union, have the control and administration of, and be responsible for, all matters specified in this chapter, except such of those matters as the "District Board" may think fit to take under its direct control and administration.
- 105. Every Union Committee shall submit annually to the Union Committee to submit reports, estimates, and accounts to Local Board.

 Stimate of the probable receipt and expenditure of the Committee under each head of Account "* for the ensuing financial year, and an account of its receipts and expenditure for the past financial year, and shall also submit any other reports which the "District Board" may, from time to time, require.
 - "Every estimate submitted under this section shall be subject to the sanction of the District Board, who may, before sanctioning any estimate, modify it as they may think fit."*
- 106. A Union Committee shall not incur expenses, or under-Limits on expenditure of take liabilities, to any amount exceeding the limit imposed by the "District Board."*
- Union Committee to send "District Board" may direct, forward to schedule of reads to Local Boards. "District Board" a schedule of all village-roads and bridges thereon "within the Union. Such schedule shall state the length and width of the roads, the number, description, and dimensions of bridges, and such other particulars as the "District Board" may require.
- 108. All village-roads "and bridges thereon "* within a Union, and the stones and other materials thereof, and also all erections, materials, implements, and other things provided for such roads, "and bridges" shall be placed under the control and administration of the Union Committee.
- 109. A Union Committee shall, so far as the Union Fund per-Maintenance and repair mits, from time to time, cause the villageof village-roads. "and bridges thereon" to be main-

^{*} Words within quotations have either been added or substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914

tained and repaired, and may do all things necessary for such purpose and may—

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- (a) lay out and make new village-roads;
- (b) build and construct new bridges;
- (c) turn, divert, discontinue, or stop up any village-road "or bridges thereon;"* and
- (d) widen, open enlarge, or otherwise improve any such road, "or bridges thereon."*
- Local Board may delegate management of portions of district roads to Union Committee.

 Such Union, and such Union Committee shall thereupon do all things necessary for the maintenance and repair of the portion of road so assigned to it, and shall be responsible to the 'District Board'* in that behalf.
 - "111.* Every Union Committee shall perform such functions as may be transferred to it by notification under section 31 of the Cattle Trespass Act, 1871."†
- 112. Subject to any rules made by the Lieutenant-Governor under this Act, every Union Committee shall be charged with, and be responsible for, the maintenance and management of all primary schools within the union, the appointment (subject to section 36) of the gurus of such schools, and the transmission to such gurus of any rewards that may be grapted by the District Board or Local Board.
- 113. Subject to any rules made by the Lieutenant-Governor under this Act, a Union Committee may, with its own consent, be charged with, and made responsible for, the maintenance, management, and visiting of any dispensary within the Union.
- "114. A Union Committee shall, if required to do so by the
 Registration of births and deaths.

 Magistrate of the district, provide for the registration of births and deaths within the Union, and shall submit such returns thereof as the said Magistrate may direct."*
- "115.‡ Every Union Committee shall, subject to the control Duties of Union Committee as to sanitation, conservancy, and drainage. Union Committee shall, subject to the control of the District Board, and in accordance with rules made by the Lieutenant-Governor under this Act,—

^{*} The words within quotations have been added or substituted and ss. III and II4 have been substituted by Ben. Act V of 1908 which has been extended to Eastern Behgal by Ben. Act I of 1914.

[†] Act I. of 1871. ‡ Ss. 115 to 110 have been substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 19 4.

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- (1) provide, as far as possible, for the sanitation and conservancy of the Union and the prevention of public nuisances therein;
- (2) make special arrangements for the sanitation and conservancy of fairs and melas held within the Union;
- (3) have control of all drains and other conservancy works within the Union which are not under the control of any other authority; and
- (4) execute all works which are necessary for improving the sanitation, conservancy, or drainage of the Union:

Provided that the District Board may itself undertake any such work which, by reason of its magnitude, or of the amount of expense likely to be incurred thereon, cannot, in the opinion of the District Board, be satisfactorily executed by the Union Committee.

- Powers of Union Committee as to sanitation, conservancy, and drainage. with a scheme approved by the District Board, and sanctioned by the Commissioner under rules made by the Lieutenant-Gove rnor under this Act,—
 - (a) cause huts or privies to be removed, either wholly or in part;
 - (b) cause private drains to be constructed, altered, or removed;
 - (c) cause streets, passages, and public drains to be constructed or widened;
 - (d) cause tanks or low lands to be filled up or deepened; and
 - (e) cause such other improvements to be made as, in its opinion, are necessary to improve the condition of such village or part.
 - (2) The Union Committee may, by written notice,—
 - (1) require the owner or occupier of any hut, or the owner of any privy, to remove such hut or privy, either wholly or in part, in pursuance of clause (a) of sub-section (1); or
 - (ii) require the owner or occupier of any building to construct private drains therefor, or to alter or remove private drains thereof, in pursuance of clause (b) of sub-section (1),

within a period to be specified in the notice

^{*} Se. 113 to 119 have been substituted by Ben. Act V. of 1908 which has been extended to Easte rn Bergal by Ben. Act I. of 1914.

(3) If any work required by any such notice is not executed 1885. within the period specified in the notice, the Union Committee may themselves cause such work to be carried out .

- (4) All expenses incurred by the Union Committee under subsection (1) or sub-section (3), including such reasonable compensation as the Committee may think fit to pay to the owners or occupiers of huts or privies removed, shall be met out of the Union Fund.
 - "117.* (1) The Union Committee may, with the sanction of the District Board, employ a special estab-Cleansing of villages. lishment for the cleansing of any village within the Union.
- (2) If any village for which no establishment is maintained under sub-section (1) appears to the Union Committee to be in a filthy condition, the Committee may, by written notice, require the persons who occupy buildings in the village to cleanse their holdings, to the satisfaction of the Committee, within a period to be specified in the notice.
- (3) If any person on whom notice has been served under subsection (2) fails to comply with the requisition contained in the notice, the Union Committee shall,

unless reasonable cause to the contrary is shown, cause his holding to be cleaused, and

recover from such person such portion of the costs of such cleansing as may be approved by the Sanitation Committee, as if the same were an arrear of the assessment imposed under the village-chaukidari Act, 1870,† [or, where the Chota Nagpur Rural Police Act, 1887, is in force, under that Act \ \

.Power of Union Committee to control building, and penalties for disobedience.

"118.* (1) The Union Committee may, subject to rules made by the Lieutenant-Governor under this Act, by written order,-

- (a) direct, in accordance with a scheme approved by the District Board and sanctioned by the Commissioner, in respect of any village, that no building which it is proposed to erect in such village, and no addition to any existing building therein, shall be placed in advance of an alignment to be prescribed by the Committee and demarcated on the ground, and
- (b) prescribe, in accordance with the said scheme, the space which shall intervene between each new building, and between new buildings and any road in the village.

^{*} Ss. 115 to 119 have heen substituted by Ben. Act V of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.
† Ben. Act VI of 1870.
† Ben. Act V. of 1887

f The portion within brackets has been repealed in the Presidency of Fort William in Bengal by Ben. Act I. of 1914.

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- (2) Where any building, on any addition thereto, has been placed in contravention of an order passed by the Union Committee under sub-section (1), the Union Committee may apply to the District Magistrate, and such Magistrate may make an order—
 - (i) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished by the owner of the building, or altered by him to the satisfaction of the Committee, as the case may require, or
 - (ii) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished or altered by the Union Committee at the expense of the owner:

Provided that the Magistrate shall not make any such order without giving the owner and occupier full opportunity of adducing evidence and of being heard in defence.

- (3) If any person, to whom a direction to demolish or alter any building is given under sub-section (2), clause (i), fails to obey the same, he shall be liable to fine which may extend, in the case of a masonry building, to one hundred rupees, and, in the case of any other building, to twenty rupees, and to further fine which may extend, in the case of a masonry building, to ten rupees, and, in the case of any other building, to two rupees, for each day during which he so fails after the first day.
- "118A.* (1) A Union Committee may provide the Union or any part thereof with a supply of water proper and sufficient for public and private purposes; and, for the purposes of this section, may—
 - (a) construct, repair, and maintain tanks or wells, clear out streams or water-courses, and do any other necessary acts;
 - (b) with the sanction of the District Board, purchase or acquire by lease any tank, well, stream, or water-course, or any right to take or convey water, within or without the Union;
 - (c) with the consent of the owner thereof, utilize, cleanse, or repair any tank, well, stream, or water-course, within the Union, or provide facilities for obtaining water therefrom;
 - (d) deal with any tank, well, pool, ditch, drain, or place containing, or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudicial to health—by draining or cleansing it, or otherwise

^{*} Ss. 115 to 119 have been substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

preventing if from being prejudicial to health, but not so as in any case to interfere with any private right; or

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- (e) contract with any person for a supply of water. .
- (2) When a Union Committee has, under clause (c), with the consent of the owner, cleansed or repaired, or provided facilities for obtaining water from any tank, well, stream, or water-course, the same shall, subject to any rights retained by the owner, with the concurrence of the Committee, be reserved for drinking and culinary purposes, and shall be kept open to access by the public.
- (3) Any tank, well, stream, or water-course which a Union Committee may construct, repair, or maintain under clause (a), or purchase or acquire by lease under clause (b), shall remain under the control and administration of the Union Committee; and the Committee may, by order duly published in the village or villages in which such tank, well, stream, or water-course is situated, set apart the same or, subject to the provisions of clause (c), any other tank, well, stream, or water-course within the Union for the supply of water for drinking and culinary purposes.
- "118B.* The Union Committee or any member, officer, or servant thereof may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection, or execute any work for the purposes of, or in pursuance of, section 115, section 116, section 117, section 118, or section 118A:

Provided as follow:-

- (a) no such entry shall be made between sunset and sunrise;
- (b) no dwelling-house shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry; and
- (c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.
- "118C.* (1) If the income of the Union Committee from other

 Method of meeting cost
 of works of sanitation,
 drainage, and conservancy
 of villages.

 Li6, section 117, section 118, or section 118A,

^{*} Ss. 115 to-119 have been substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

1885. Act 3. the Committee may, from time to time, impose on the owners of buildings, tanks, wells, or water-courses, or the occupiers of buildings, within the Union, or in any village therein, such assessment as may be required approximately to meet the deficiency, together with ten per cent. above such sum to meet the expenses of collection and losses due to non-realisation of their shares from defaulters:

Provided that such assessment shall not be imposed unless-

- (i) it is authorized by a resolution which has been passed at a meeting specially convened for the purpose, and in favour of which a majority of not less than two-thirds of the members of the Union Committee have voted,
- (ii) it is previously sanctioned by the District Board and the Commissioner.
- (2) The Union Committee shall appoint one of their number or any other person to receive and collect the said assessment, and to grant receipts for the same, and to keep the accounts thereof; and may permit the person so appointed to retain any sum not exceeding five per cent. of the amount collected by him to repay the costs of such collection.
- (3) The provisions of sections 15 to 19, 25 to 29, 3r to 34, 46A, 46B, and 63 of the Village-chaukidari Act, 1870,* [or, where the Chota Nagpur Rural Polic Act, 1887,† is in force, the provisions of sections 9, 10, 13, 15 to 18, 20, 21, 34, and 36 of that Act, shall apply to such assessment and the payment and recovery thereof]:‡

Provided as follow:-

- (a) all references, in any of the said sections of the Villagechaukidari Act, 1870,* to a panchayat shall be construed as references to the Union Committee;
- (b) the references, in sections 46B of the said Village-chaukidari Act, 1870,* to the chaukidari assessment, shall be construed as references to the assessment imposed under this section;
- [(c) all references, in any of the said sections of the Chota Nagpur Rural Police Act, 1887,† to the Deputy Commissioner or the District Superintendent of Police shall be construed as references to the Union Committee;]‡
- (d) the amount to be assessed on any one person shall not exceed five rupees per mensem;

Ben. Act VI. of 1870.

[†] Ben. Act V. of 1887.

t The portions within brackets have been repealed in the Presidency of Fort William in Bengal by Ben. Act I. of 1914.

(e) the amount assessed on any person may be made payable, either in lump, or periodical instalments; and

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(f) the proceeds of the said assessment shall be credited to · the Union Fund.

"118D.* Any person who is aggrieved Appeals against orders, by any order of a Union Committeeawards and assessments.

- (i) directing such person to take any action with regard to his property under sub-section (2) of section 116, subsection (2) of section 117; or sub-section (1) of section 118; or
- (ii) awarding or refusing to award compensation to such person under sub-section (4) of section 116; or
- (iii) making an assessment in respect of any property of such person in accordance with the provisions of section 118C:

may, within three months from the date of such order, appeal to a sub-committee of members of the District Board to be constituted under clause (c) of section 32 of this Act; and the decision of such sub-committee shall, subject to the exercise of a power of revision at the discretion of the Commissioner, be final

- "119.* (1) Nothwithstanding anything in the foregoing provisions of this Act, the District Board may, by Power of District Board order in writing, with the sanction of the to Subordinate Union Committee to Local Board. Commissioner, direct that any specified Union Committee shall act as the agent of, and shall be subject to the control of, a Local Board instead of the District Board, either for all purposes, or for the purposes specified in the order.
- (2) Any order made under sub-section (1) may, with the like sanction, be revoked.
- (3) So long as an order made under-sub-section (1) with respect to any Local Board continues in force, the references to the District Board in the foregoing sections of this Act shall, so far as may be necessary, be read as if made to such Local Board."

PART IV.

CONTROL.

Powers of Lieutenant-Governor and of Commissioners and of Magistrates of districts with respect to proceedings of local authorities.

120. It shall be the duty of the Lieutenant-Governor and of all Commissioners and Magistrates of districts, acting under the orders of the lieutenant-Governor, to see that the proceedings of local authorities are in conformity with law and with the rules in force thereunder. The Lieutenant-Governor may, by order in

^{*} Ss. 115 to 1.9 have been substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

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writing, annul any proceeding which he considers not to be in conformity with law and with the said rules, and may do all things Act 3. necessary to secure such conformity.

> Records to be open for inspection of Commis sioner or of Magistrate of district.

121. Every local authority shall at all times permit the Commissioner or the Magistrate of the district to have access to all its books, proceedings, and records.

122. The Commissioner or the Magistrate of the district shall have power at all times to enter on and Power of Commissioner or of Magistrate to inspect inspect, or cause to be entered on and inworks spected, any immoveable property occupied by, or any work in progress under the orders of, or any institution controlled by, a local authority.

123. It shall be lawfel for the Lieutenant-Governor to appoint an officer to be inspector of local works in Appointment of inspector each Commissioner's division, or in more of local works and duties to be performed by him than one such division, and to sanction an establishment for such officer

It shall be the duty of the inspector of local works to inspect and advise with regard to all public works under construction or repair vested in, or in charge of, any local authority within the division.

The inspector of local works shall also perform such duties and exercise such powers as may be assigned to him by any rules made by the Lieutenant-Governor under this Act.

The inspector of local works may at all times enter upon, or cause to be entered upon, any immoveable property belonging to any local authority in the division, or any work in progress under its direction, and may require it to furnish such statements, estimates, and reports as he thinks fit. A report of every inspection shall be prepared and a copy thereof forwarded to the District Board concerned, through the Magistrate of the district.

In all the matters of professional detail the local authority shall be guided by the report of the inspector of local works.

124. The Magistrate of the district, or the Commissioner, may, by order in writing, suspend the exe-Power to suspend action cution of any order or resolution of a local of local authorities by Magistrate of district and authority within the jurisdiction of such Commissioner. Magistrate or Commissioner, or the doing of any act which is about to be done, or is being done by such local authority, if in his opinion the execution of the resolution or order, or the doing of the act, is likely to cause injury or annoyance to the public or to any class or body of persons, or to lead to a breach of the peace.

125.. When the Commissioner is informed, on complaint made 1885. or otherwise, that a District Board has made Power to provide for performance of duties in case default in performing any duty imposed on of default by District Board. it by or under this Act, the Commissioner. if satisfied, after due enquiry, that such District Board has made default as alleged, may, by order in writing, fix a period for the performance of that duty.

If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the District Board.

If the expense and remuneration are not so paid, the Commissioner may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration or as much thereof as is possible from that balance; and such person shall make payment accordingly.

126. In case of emergency the Magistrate of the district may provide for the execution of any work, or Extraordinary powers in the doing of any act, which a local authority case of emergency. is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the District Board.

If the expense and remuneration are not so paid, the Magistrate may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration or as much thereof as is possible, from that balance; and such person shall make payment accordingly.

Magistrate's order under sections 124 and 126 to be reported to Commissioner, who may confirm, modify, or rescind it.

127. When the Magistrate of the district makes any order under sections 124 or 126, he shall forthwith submit to the Commissioner a copy of the order, with a statement of his reasons for making it, and with any explanation which the local authority concerned may wish to

-offer, and the Commissioner may thereupon confirm, modify, or rescind the order.

Commissioner's proceedings to be submitted to Lieutenant-Governor for final orders

128. In every case under the last preceding section in which the Commissioner confirms or modifies any order, he shall forthwith submit to the Lieutenant-Governor a copy of the proceedings, and the Lieutenant-Governor may thereupon

confirm, modify, or rescind the order of the Commissioner.

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129. When the Commissioner makes any order under section

124 or 125, he shall forthwith submit to the Commissioner's orders Lieutenant-Governor a copy of the order, under sections 124 and 125 to be submitted to Lieutewith a statement of his reasons for making nant Governor. it, and with any explanation which the local

authority concerned may wish to offer, and the Lieutenant-Governor may thereupon confirm, modify, or recind the order.

Powers and duties of Commissioner and Magistrate of district transferred to District Board and Local

130. All powers conferred upon Commissioners and Magistrates of districts in regard to District Boards by sections 124, [125]* and 126 shall be exercised in respect of a Union Committee by the District Board or the Local Board to which the Committee may have been de-

clared by an order under section 11, to be for the purposes of this section subordinate],* and in respect of a Local Board by the District Board.

When a Local Board makes any order under this section, it shall forthwith submit to the District Board a copy of the order with a statement of its reasons for making it, and with any explanation which the Union Committee concerned may wish to offer. The District Board may thereupon confirm, modify, or rescind the order.

When a District Board makes any order under this section it shall forthwith submit to the Magistrate of the district, for submission to the Commissioner, a copy of the order, with a statement of its reasons for making it, and with any explanation which the Local Board [or Union Committee]* may wish to offer. If the Commissioner is dissatisfied with the order, he may report the matter to the Lieutenant-Governor, who may thereupon confirm, modily, or rescind the order.

131. If a District Board or Local Board for Union Committee]*

Power of Lieutenant Governor to supersede District Board or Local Board in case of incompetency or wilful neglect of duty.

is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Lieutenant-Governor may, by notification, specifying the reason for so doing, supersede such District Board or Local Board [or Union Committee]* for a period to be specified in such notification.

132. When a District Board or Local Board [or Union Commit-.. tee]* is superseded under the last preced-Consequences of supersession. ing section, the following consequences shall ensue:-

(a) all members constituting the District Board or Local Board [or Union Committee]* shall, from the date of the notification, vacate their offices as such members;

^{*} The words or figures within brackets have been added or substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

(b) all powers and duties of the District Board or Local Board for Union Committee]* may, until such District Board or Local Board [or Union Committee] * is reconstituted, · be exercised and performed by such person or persons as the Lieutenant-Governor may, from time to time, appoint in that behalf;

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(c) when a District Board is superseded, all property vested in it shall, pending the reconstitution of the Board, be vested in the Lieutenant-Governor.

On the expiration of the period of supersession specified in notification, the Board [or Committee]* shall be re-established, and the persons who vacated their offices under clause (a) shall be eligible for appointment or election.

Nevertheless it shall be lawful for the Lieutenant-Governor to direct that a Local Board, re-established under this section, shall consist entirely of appointed members, although such Local Board may have been established in a district mentioned in the third schedule of this Act.

Disputes between two or more Union Committees when to be referred to District Board or Local Board.

"133.† (1) If a dispute arises between the two or more Union Committees which are subordinate to the same District Board, or which have been declared, by any order under section 119, to be, for the purposes of this section, subor-

dinate to the same Local Board, the matter shall be referred to such District Board or Local Board, as the case may be, and the decision of the Board thereon shall be final and binding.

- (2) If a dispute arises between two or more Union Committees within the same district, and such Committees have not all been so declared to be subordinate to the same Local Board, the matter shall be referred to the District Board; and the decision of the District Board thereon shall be final and binding."
- 134. [Disputes between two or more Union Committees under the authority of different Local Boards to be referred to Listrict Board when Local Boards cannot agree]. Repealed by Ben Act V. of 1908 which has been extended to Eastern bengal by Ben. Act I, of 1914.
- 135. If a dispute arises between two or more Local Boards within the area under the authority of a Dis-Disputes between two or more Local Boards to be retrict Board, the matter shall be referred to the ferred to District Board. District Board, and the decision of such District Board upon the matter so referred shall be final and binding.

^{*} The words or figures within brackets have been added or substituted by Ben Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I of 1914.

† For sections 133 and 134 the new section 133 has been substituted by Ben. Act
V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

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Disputes between municipal authorities and local authorities in the same district to be referred to Magistrate of district.

136. If a dispute arises between a municipal authority or authorities and a local authority or authorities within the same district, the matter shall be referred to the Magistrate of the district, and the decision of the Magistrate upon the matter so referred shall be final and binding:

Provided that, if the Magistrate is a member of one of the authorities concerned, his functions under this section shall be discharged by the Commissioner.

- 137. If any dispute, for the decision of which this Act does not otherwise provide, arises between two or Decision of disputes not otherwise provided for. more local authorities, or between a local authority or authorities, and a municipal authority or authorities, the matter shall be referred—
 - (a) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts; and
 - (b) to the Lieutenant-Governor if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

And the decision of the Commissioner or Commissioner, or of. the Lieutenant-Governor, as the case may be, upon the matter so referred, shall be final and binding.

- 138. It shall be lawful for the Lieutenant-Governor to make rules, consistent with this Act, for any Dis-Power of Lieutenant-Gotrict Board or Local Board or Union Commitvernor to make rules. tee, for the purposes of—
 - (a) determining the mode and time of appointment or election of members of Boards and Committees, the term of office and the qualifications and disqualifications of such members, and the qualifications and disqualifications and the registration of voters and candidates, and generally for regulating all elections under this Act [and determining the authority who shall decide disputes relating to such elections];*
 - (b) regulating the conduct of proceedings of Boards and Committees, including the manner in which the notices of a meeting shall be given, the fixing of a quorum, the due record of proceedings, and the language in which business shall be transacted;
 - (c) fixing the time within which a Chairman or Vice-chairman may be elected;
 - (d) regulating the powers of District Boards to transfer pro-

[•] The words within brackets have been added by Ben. Act. V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914,

(e) regulating the powers of Boards and Committees to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts:

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- (f) determining the [intermediate]* offices, if any, through which correspondence between Boards and Committees, or members of Boards and Committees, and the Lieutenant-Governor or his officers, shall pass; [and declaring what circumstances shall be a disqualification for continuance of employment under that section];*
- (g) prescribing the qualifications of candidates for employment under section 33; [and declaring what circumstances shall be a disqualification for continuance of employment under that section].*
- (h) prescribing the times for holding meetings and for submitting statements, estimates, reports, or accounts, under sections 46 and 47;
- ["(h1) prescribing the conditions on which a house and land may be acquired, or on which land may be acquired and a house constructed, by the District Board, for the residence of the District Engineer, and the terms on which the District Engineer may be required to occupy the same:
- "(h2) regulating the application of the balance of the District Fund mentioned in clause (1) of section 52 of this Act to objects other than those mentioned in section 109 of the Cess Act, 1880,† as amended by this Act;"]*
- (i) prescribing forms for statements, estimates, and accounts and regulating the keeping, checking, and publication of such accounts and the manner of periodical audit under sections 54 and 55;
- (j) regulating the maintenance and management of schools under sections 62, 03, and 64, the construction and repair of buildings connected therewith, and the appointment of masters and assistant masters, and the proper distribution of funds transferred to District Boards under section 65;
- [(ji) prescribing the conditions subject to which grants-inaid may be made under section 63 or section 64A;
- (i2) regulating the provision, maint enance, and management of students' hostels under section 64A;

† Ben. Act IX. of 1880.

^{*} The words within brackets have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

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- (13) prescribing the powers and duties of Education Committees, and regulating the removal of members from office];*
- (j4)† regulating the grant of scholarships established under sections 64A;
- (k) regulating the control and administration of dispensaries, hospitals, and places of reception for the sick, the construction and repair of buildings connected therewith, and the supply of medicines and medical assistance for the poorer inhabitants of the district;
- [the training and employment of compounders, midwives, and veterinary practitioners, and the promotion of free vaccination;]*
- (1) prescribing the procedure to be adopted in the appointment of the engineer to the District Board under section 84, and regulating the performance and exercise of the duties and powers of such engineer and of the inspector of local works under sections 85 and 123, respectively;
- (m) regulating the submission for approval of plans, designs, specifications, and estimates under section 86; [and prescribing conditions precedent to the making of any contribution under section 29].*
- ["(m1) prescribing, for the purposes of section 86A of this Act, the mode of ascertaining the captalised value of the estimated cost to the District Board of maintaining bridges, road-ways, or foot-ways, and of renewing any bridge, road-way, or foot-way which requires periodical renewal, and the mode of determining what classes of bridges, road-ways, or foot-ways require periodical renewal;
- (m2) prescribing, for the purposes of section 86C, the method in which the proceeds of tolls, or of the lease thereof, shall be adjusted between the District Boards of adjacent districts];*
- (n) regulating the duties and powers of District Boards [and Sanitation Committees]* in regard to sanitation;
- (o) regulating the duties of District Boards in regard to taking a census;
- ["(o1) regulating the duties of District Boards in regard to the relief of famine, serious distress, or scarcity"];*

William in Bengal.

^{*} The words within brackets have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

† (j4) has been added by Ben. Act I. of 1914, which is in force in Presidency of Fort

Act 3.

(*) regulating the establishment and maintenance of staging bungalows and serais, the holding of fairs and exhibitions, the offer of rewards for the destruction of noxious animals, [the establishment and maintenance of veterinary dispensaries, the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle, and other animals, the improvement of the breed of horses, cattle, or asses, and the breeding of mules, the making of grants-in-aid under clause (3d) of section 100 of this Act;]* and the carrying out of any other work likely to promote the health, comfort, or convenience of the public;

- (q) regulating the powers of Union Committees in regard to primary schools and dispensaries under sections 112 and 113;
- [(q1) regulating the powers and duties of Union Committees in regard to sanitation, conservancy, and drainage under sections 115 to 118C (both inclusive), and defining and prohibiting public nuisances within Unions]*;
- (r) providing for the appointment and payment of auditors of the accounts of Boards and Committees;
- (s) affording guidance to District Boards when suits or other proceedings are threatened or have been instituted by or against them in Civil Courts; and
- (t) generally determining the relations between District Boards, Local Boards, and Union Committees, and for the guidance of Boards and Committees and Government officers in all matters connected with the carrying out of the provisions of this Act;

and may, from time to time, repeal or alter such rules.

Rules made under this section shall be published in such manner as the Lieutenant-Governor may direct, and shall thereupon have the force of law;

and no rules under clause (a) shall come into operation until three months after they have been published as aforesaid.

[In making any rule 'under clause (q1) of this section, the Lieutenant-Governor may provide that a breach of the same shall be punished with fine which may extend to ten rupees] *

^{*} The words within brackets have been added or substituted by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

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Bye-laws.

Act 3.

139. Every District Board or Local Board, empowered in this

Power of District Board behalf by the Lieutenant-Governor, may
and Local Board to make [subject to the control of the Lieutenant-bye-laws] Governor]* make bye-laws for carrying out all or any of the purposes of this Act.

Bye-laws made under this section shall have the force of law when [confirmed by the Commissioner]* and published in such manner and for such time as the Lieutenant-Governor may direct.

- 140. In making a bye-law under the last preceding section a Penalty for infringement board may provide that a breach of the same of bye-laws. shall be punished with fine which may extend to fifty rupees, and in the case of a continuing breach with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.
 - 141. Prosecutions under this Act for breach of bye-laws may be instituted by any Board or by any person authorized by the Board in this behalf.

A Judge or Magistrate shall not be deemed to be, within the meaning of section 555 of the Code of Criminal Procedure a party to, or personally interested in, any case under this section merely because he is a member of the Board.

Miscellaneous Provisions.

- Liability of members of plication of any money or other property beloards and Union Committees.

 or Union Committee, unless such loss, waste, or misapplication is a direct consequence of his neglect or misconduct while a member of a Union Committee, Local Board, or District Board, and a suit for compensation for the same may be instituted against him, in such Court as the Lieutenant-Governor directs, by the District Board with the sanction of the Lieutenant-Governor or by the Secretary of State for India in Council.
- Procedure for making under section 138, and a District Board or rules and bye-laws.

 Local Board, before making any bye-laws under section 139, shall publish, in such manner as the Lieutenant-Governor deems sufficient for giving information to persons interested, the proposed rules or bye-laws, together with a notice specifying a date on or after which the same will be taken into consideration; and shall, before making such rules or bye-laws,

^{*} The words within brackets have been added or substituted by Ben. Act V. of 1508 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

receive and consider any objection or suggestion which may be 1885. made by any person with respect to the same before the date so specified.

Every such rule or bye-law shall be published in the Calcutta Gasette in English and in such other language as the Lieutenant-Governor directs, and such publication shall be evidence that the rule or bye-law has been made as required by this section.

144. If any member of a local authority, or any officer or servant maintained by, or employed under, a Penalty on member, officer, or servant being interlocal authority, has, directly or indirectly, ested in contracts made any share or interest in any work done by with a local authority, order of the local authority of which he is a member, or by which he is maintained, or under which he is employed, or in any contract with or under such local authority, he shall be liable, on conviction before a Criminal Court, to a fine which may extend to five hundred rupees:

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person-

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the local authority; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local authority may be inserted; or
- (c) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of, the local authority.

Nevertheless it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b), to act as a member of the local authority in any matter relating to a contract or agreement between the local authority and such company or the manager or publisher of such newspaper.

[Nothing in this section shall apply to the payment of fees to a legal practitioner for services rendered by him in his professional capacity.]*

- 145. Every local authority may make compensation out of the District or Union Funds, respectively, to any Power to make compensation out of the local fund. person sustaining any damage by reason of the exercise of any of the powers conferred by this Act.
- 146. No suit shall be brought against the members of any District Board, Local Board, or Union Com-No action to be brought mittee, or any of their officers, or any peragainst the members of Boards and Committees or son acting under their direction, for anything their officers until after one done under this Act, until the expiration of month's notice of cause of one month next after notice in writing has action. been delivered or left at the office of such

^{*} The words within brackets have been added by Ben. Act. V. of 1908 which has been extended to Eastern Bengal by Ben. Act I. of 1914.

Act 3.

1885. Board or Committee, and also (if the suit is intended to be brought against any officer of the said Board or Committee, or any person acting under their direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit;

and, unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

If any such person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

THE FIRST SCHEDULE.

(See section 2.)

REPEAL OF ENACTMENT.

Number and year.	Subject.	Extent of repeal.
Bengal Act IX, of 1880.	To amend and consolidate the law relating to rating for the construction, charges, and maintenance of district communications and works of public utility and of provicial public works.	

THE SECOND SCHEDULE.

(See section 2.)

1885. Act 3

· AMENDMENT OF ENACTMENT:

Number and year.	Subject.	Extent of amendment.
Bengal Act IX. of 1880.	To amend and consolidate the law relating to rating for the construction, charges, and maintenance of district communications and works of public utility and of provincial public works.	In section 4 the following definitions shall be substituted for the definition of "the Committee":— "'District Board' means the board constituted under the provisions of the Bengal Local Self-Government Act of 1885." "'District Fund' means the fund formed under section 52 of the Bengal Local Self-Government Act of 1885." In section 9 the words and, together with other assets of such fund, shall be applied to the purposes mentioned in section [109]"* shall be omitted. The following section shall be substituted for section 38:— "The road cess for each year shall be assessed and levied in cess shall be levied how each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the District Board." In section 40, omit the words, "as provided in section 155" In sections 82 and 83, the words, "District Road Fund," shall be substituted for the words "Committees" and "Committee," repectively. In section 98, the words, "District Road Fund," shall be substituted for the words, "District Road Fund," shall be substituted for the words, "District Road Fund," shall be substituted for the words, "District Road Fund," shall be substituted for the words, "District Road Fund," shall be omitted. The following new section shall be substituted for section 109:— "The District Road Fund of every district Road Fund. The politation of District shall be applicable to the following objects, and in the following order:—

^{*} The figures within brackets have been substituted for the figures "111" by Act 1. of 1903.

1885.

THE SECOND SCHEDULE—continued.

Act 3.

Number and year.	Subject.	Extent of amendment.
Bengal Act IX. of 1880,— contd.	To amend and consolidate the law relating to rating for the construction, charges, and maintenance of district communications and works of public utility, and of provincial public works.	Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91. Secondly.—To the indemnification of the Collector, with the sancion of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable in the course of the proceedings for the assessment and collection of the cesses under this Act. And the balance, after payment of such expenses, shall be credited to the District Fund of the district," [and shall be applicable to the following objects, and in the following order, namely:— (a) the payment of any sums which the District Board may, under the Bengal Local Self-Government Act of 1885,* from time to time, have undertaken to pay as interest on loans raised for expenditure on any of the objects to which the District Road Fund is applicable, and the repayment of such loans;
		(b) the payment of the percentage referred to in clause Thirdly of section 53 of the said Act;
		(c) the payment of such of the salaries, pensions, gratuities, grants, and percentages referred to in clause Fourthly of the said section as are required for members of establishments employed for improving the means of communication within the district, or between the district and other districts:
		(d) the payment of such of the expenses referred to in clause fifthly of section 53 of the said Act as are incurred in improving the means of communication within the district, or between the district and other districts, or in carrying out the provisions of section 79 of the said Act;

THE SECOND SCHEDULE-concluded.

1885. Act 3.

Number and year.	Subject.	Extent of amendment.
Bengal Act IX. of 1880,— concld.	To amend and consolidate the law relating to rating for the construction, charges, and maintenance of	(e) the payment of the expenses referred to in clause Seventhly of section 53 of the said Act; and
	district communica- tions and works of public utility, and of provincial public works,	(f) the making of investments referred to in clause Eighthly of the said section 53.]*

THE THIRD SCHEDULE.

(See sections 6 and 9.)

Districts in every Sub-division of which a Local Board shall be established.

DISTRICT.	District,	
24-Pergunnahs. Nuddea. Moorshedabad. Jessore. Khoolna. Hooghly. Howrah. Burdwan.	Midnapur. Bankoora, Beerbhoom, Dacca. Furreedpur. Rajshahye, Pubna. Patna.	

^{*} The portions within brackets have been added by Ben. Act V. of 1908 which has been extended to Eastern Bengal by Ben. Act. I. of 1914

1886.

ACT NO. 1. OF 1886.

Acts 1 & 2.

The Bengal Village Chaukidari (Amendment) Act, 1886.+

RECEIVED L.-G.'S ASSENT ON 10TH APRIL, AND G.-G.'S, 24TH MAY, 1886.

Preamble.

WHEREAS it is expedient to further amend the Village Chaukidari Act, 1870; It is enacted as follows:-

PRELIMINARY.

Extent.

1. This Act shall be read with, and taken as part of, Bengal Act VI. of 1870, as amended by Bengal Act I. of 1871.

And it shall come into force in all districts to which Bengal Act VI. of 1870, as amended by Bengal Act Commencement. I. of 1871, has been extended from the date! on which it may be published in the Calcutta Gazette with the assent of the Governor-General.

2. [New section substituted for section 3].—Repealed by the Repealing and Amending Act (V. of 1897).

[Note.—The amendments made by the remaining sections except ss. 2 and 8 of this Act are embodied in Ben. Act VI. of 1870, as printed on pp. 157-170, supra. The amendments made by ss. 2 and 8 having been superseded by those made, by Ben. Act I. of 1892, ss. 3 and 15 respectively, ss. 2 and 8 of this Act have been repealed by the Repealing and Amending Act (V. of 1897).]

ACT NO. II. OF 1886.

The Calcutta and Subarban Police (Amendment) Act, 1886. RECEIVED L.-G.'S ASSENT ON 20TH MARCH, AND G.-G.'S, 28TH MAY, 1886.

Preamble

WHEREAS it is expedient to amend Bengal Act II. of 1866 and the Calcutta Police Act, 1866; It is enacted as follows:--

1. [Commencement of Act].—Repealed by the Repealing and Amending Act, 1903 (1. of 1903), now known as the Amending Act, 1903.-Vide Act X. of 1914, Sch. II.

[Note — The amendments made by the remaining sections of this Act (i.e., by 25. 2 to 4) in Ben. Acts II. and IV. of 1866 have been embodied in those Acts as printed at pp. 71, and 107 supra, respectively.]

^{*} Ben. Act I. of 1886 has been extended, by notification under the Scheduled Districts Act (XIV), of 1874 to the District of Goalpara.

[†] This short title has been given by Act I. of 1903. ‡ That is, the 2nd June 1886.

¹ This short title has been given by Act I, of 1903.

MUNICIPAL AMENDMENT & CALCUTTA SURVEY. 935

ACT NO. III. OF 1886.*

1886. & 1887.

The Bengal Municipal (Amendment) Act, 1886.+

Acts 3 to 1.

RECEIVED L.-G.'S ASSENT ON 24TH SEPTEMBER, AND G.-G.'S, IST OCTOBER, 1886.

Preamble.

WHEREAS it is expedient to amend Bengal Act III. of 1884; It is enacted as follows :-

1. [Commencement of Act].—Repealed by the Repealing and Amending Act 1903 (1. of 1903), now known as the Amending Act, 1903.—Vide Act X. of 1914.

New section substituted for section 251 of Ben. Act III. of 1884.†

2. For section 251 of Bengal Act III. of 1884, the following shall be substituted :-

[See, supra, p. 794.]

New sections to follow section 251 of Ben, Act III. of 1884.

3. After section 251 of Bengal Act III. of 1884, the following sections shall be inserted.

[See, supra, p. 795.]

ACT NO. I. OF 1887.

RECEIVED L.-G.'S ASSENT ON 15TH JANUARY 1887, AND G.-G.'S, 31ST IDEM.

An Act to provide for a Survey of the Town of Calcutta.

WHEREAS it is expedient to provide for the survey and demarcation of land in the Town of Calcutta; It Preamble. is hereby enacted as follows:-

1. Commencement].—Repealed by the Repealing and Amending Act 1903 (I. of 1903), now known as the Amending Act, 1903.-Vide Act X. of 1914.

Local extent.

It extends to the Town of Calcutta within the local limits of the ordinary original civil jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

"Survey."

"survey" includes identification boundaries and all other operations antecedent to, or connected with, survey:

^{*} Ben. Act III. of 1886 has been repealed, so far as it amended Ben. Act IV. of 1876, and the references to the latter Act have therefore been omitted .- See Ben. Act II. of 1888, s. 2, and Sch. I, infra. † This short title has been given by Act I. of 1903.

1887. Act 1.

"Superintendent."

"Superintendent" means the Superintendent of Survey under this Act;

" Land."

"land" includes any thing attached to the earth or permanently fastened to any-

thing attached to the earth;

"premises" means any land described as such in the registers of the Corporation of the Town of Calcutta, or as a holding in the registers of the Calcutta Collectorate:

" Owner."

" Premises."

"owner" includes-

- (a) the person having permanent interest in any land or premises;
- (b) an agent of, or manager on behalf of, such person;
- (c) a trustee of such person;
- (d) a body corporate in which land is vested by operation of Statute.
- 3. The Local Government may, whenever it thinks fit, order, by a notification in the Calcutta Gazette, Local Government may order survey and appoint that a survey shall be made of the lands Superintendent. situated in the Town of Calcutta, and for such purpose may appoint a Superintendent of Survey, and one or more Assistant Superintendents of Survey. The Assistant Superintendents of Survey shall exercise such powers as may be delegated to them by the Superintendent.
- 4. The Superintendent of Survey shall, for the purposes of this Act, have power, either by himself or Superintendent may enby an Assistant Superintendent of Survey, ter upon land. or by other officers employed in the survey, to enter, between the hours of sunrise and sunset, upon any land or premises within the local limits aforesaid, without being liable to any legal proceedings whatsoever on account of such entry, or of anything done on such land or premises in pursuance of this Act:

Provided that no such entry shall be made upon lands or premises which may be occupied at the time, unless with the consent of the occupier thereof, or without previously giving the said occupier twenty-four hours' notice of the intention to do so.

5. Before entering on any land or premises for the purposes Suprintendent to give no. of survey, the Superintendent may cause a tice before entering on land. notice in writing under his hand to be served on the owner of the land or premises about to be surveyed, and on the owners of conterminous lands or premises, calling upon them to attend either personally or by agent on such land or premises before him or before such officer as may be authorized by him in that behalf, within a specified time (which shall not be less than three days after the service of such notice) for the purpose of pointing out boundaries, and of affording such information as may be needed for the purposes of this Act, and every person on whom such notice may be served shall be legally bound to attend as required by the notice, and to give any information which may be required so far as he may be able to give it.

1887.

- 6. If, after due service of notice under the last preceding secPersons summoned failtion, any person fails to appear without ling to appear are bound by showing sufficient cause to the satisfaction of the Superintendent, the Superintendent, or such officer as may be authorized by him, may proceed with the survey, and the person who is so absent shall be bound by the results of the survey in the same manner, and to the same extent, as if the survey were made in his presence.
- . 7. If, in the course of survey, it shall come to the notice of the In case of dispute Assissuperintendent that a dispute exists as to tant Superintendent to hold any boundaries which should be surveyed, the Superintendant shall cause an enquiry to be held by an Assistant Superintendent, as hereinafter provided, for the purpose of determining such boundaries.
- 8. When any dispute exists as to any boundaries, the Assistant Procedure in case of dis. Superintendent, who may be authorized by pute as to boundaries. the Superintendent in this behalf, shall cause a notice in writing under his hand to be served on the parties concerned, requiring them to appear before him in person, or by an authorized agent on a specified day, and to produce evidence of possession of the land in dispute. The Assistant Superintendent shall, on the specified day, or on such other day to which the hearing may be adjourned, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence as he may think necessary, and, without reference to the merits of the claim of any of such parties to a right to possess the land in dispute, decide which of the parties is in possession of the said land at the time of the survey.
- 9. For the purposes of the enquiry atoresaid, the Assistant Power of Assistant Su-Superintendent shall have power to summon perintendent to enforce attendance of witnesses, and compel the production of documents by the same means, and in the same manner, as is provided in the case of a Court under the Code of Civil Procedure.*
- 10. After the enquiry has been completed, the Assistant Superintendent shall pass an order in writing, defining clearly the subject of dispute, and shall record his decision, and the reasons for such decision.

1887. Act 1.

- 11. An appeal shall lie from any order passed by an Assistant An appeal shall lie to the Superintendent under the last preceding Board of Revenue. Section to the Board of Revenue, or to such other authority as the Local Government may, by notification in the Calcutta Gazette, appoint in this behalf, if preferred within thirty days from the date of such order.
- 12. In every case of disputed boundaries, the Assistant SuperPower to refer to arbitraintendent authorized to hold the enquiry
 may, on the written application of the parties, refer the dispute to one or more arbitrators nominated by the
 parties respectively, and shall fix such time, and allow such extension of time, as may seem reasonable for the delivery of the award:

Provided that, if it appears to the Assistant Superintendent that the Local Government or the Corporation of Calcutta is interested in any such dispute, he shall appoint, in the former case, the Collector or Deputy Collector of Calcutta, and, in the latter case, the Chairman, Vice-Chairman, or Surveyor of the Corporation, one of the arbitrators, unless the parties agree to such officer being appointed sole arbitrator.

- 13. Where an arbitrator nominated by a party refuses to act, On failure of an arbitrator or becomes incapable of acting by reason of to act, another may be application death or other sufficient cause, the party by whom he was nominated may, by a written application to the Assistant Superintendent, nominate another arbitrator, and, on being satisfied that the application has been made on sufficient grounds, he shall confirm such nomination, and the arbitrator so appointed may thereupon proceed with the enquiry.
- 14. If the arbitrators differ, the award shall be in accordance

 Appointment of an umequally divided in opinion, it shall be competent to them, or to the Assistant Superintendent, on the written application of the arbitrators, or of the parties to the arbitration, to appoint an um pire, and the decision of the umpire determining the boandaries in dispute shall have the force of an award of the arbitrators
- 15 The Assistant Superintendent shall, on the application of Power to enforce attendance of witnesses in an arprocesses to parties and witnesses as he bitration. the arbitrators or umpire, issue the same processes to parties and witnesses as he may issue in enquiries held by himself.
- On failure to make an award, Assistant Superinted the ceding sections fail to deliver the award within the time allowed by the Assistant Superintendent, he may make an order superseding the arbitration; and, in such case, he shall proceed with the enquiry.

17. The award shall be made in writing, and shall be signed 1887. by the persons making it, and shall be filed The award. in the office of the Superintendent with any evidence which may have been taken by the arbitrators or the umpire. The Superintendent shall lay down the boundaries in accordance with the award.

- 18. The Superintendent may at any time cause to be erected on any land which is to be, or has been, Superintendent may erect surveyed under this Act, temporary or perboundary-marks manent boundary-marks of such materials, and in such number and manner, as he may determine to be sufficient.
- 19. When any temporary boundary-mark has been erected under the last preceding section, the Super-Maintenance of temporary boundary-marks. intendent may cause a notice in writing under his hand to be served on the owner or person in occupation of the land or premises whereon, or adjoining which, such boundary-mark is situate, requiring him to maintain and keep in repair such boundary-mark till the survey has been completed.
- 20. After the survey of any part of the Town has been completed, the Superintendent shall deposit all All documents connected with the survey to be sent maps, field-books, proceedings, awards, and to the municipal office. all other documents connected with the survey of such part in the Municipal Office of the Corporation of Calcutta.

Any person interested in the survey may, at any time within two months from the date of such deposit, which date shall be notified in the Calcutta nasette inspect such documents free of charge.

And, if, during such period, any objection to the survey be lodged with the Superintendent, such objection shall be decided by the Superintendent, or by Such officer as the Local Government may appoint in this behalf.

- 21. After all objections lodged under the last preceding section, have been decided, the Local Govern-· Approval of the survey by the Local Government ment shall, if it approves the survey, signify to be notified. such approval by notification in the Calcutta Gasette.
- 22. No suit shall he to set aside any demarcation of boundaries made under the provisions of this Act No suit shall lie unless unless brought within one year from the brought within one year. date of the notification mentioned in the last preceding section.
- 23. The Local Government may lay down rules not being inconsistent with this Act to provide for the Local Government may preparation of maps and for the collection make rules under the Act. and record of any information in respect of any land to be surveyed under this Act, and generally for the proper performance of all

1887. Act 1 things to be done, and for the regulation of all proceedings to be taken under, this Act.

How notices may be served.

- 24. Every notice in and by this Act required to be served on any person may be served—
- (a) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides or holds his office, or carries on his business, or by delivering the same to an agent or servant of such person, or to a male adult member of his family, and by fixing a copy on some conspicuous part of the land or premises to which it relates; or
- (b) by sending a registered cover through the postoffice containing such notice directed to the said person at the place where he resides:

Provided that, after the publication of the notification referred to in section 21, no survey made under this Act shall be vitiated for any defect in the service of notice.

- 25. Whoever fails to comply with a requisition contained in

 Penalty for failure to any notice duly served under section 5 or
 comply with requisition in section 8 of this Act, shall be liable to a fine
 notice. not exceeding one hundred rupees.
- 26. No proceedings under this Act shall be affected by reason Proceedings not to be of any intormality, provided the directions affected by informality. of this Act be in substance and effect complied with; and no proceedings under this Act shall be affected by reason of the omission to serve any notice on an owner whose name is not registered as owner in the Calcutta Collectorate, or in the registers of the Corporation of the Town of Calcutta.
- Power of Local Government may extend the whole or any of
 Power of Local Government to extend this Act any part of the Suburbs of Calcutta which
 to the Suburbs.

 may hereafter be amalgamated for municipal purposes with the Town of Calcutta.*

^{*} See Ben. Act II. of 1888, 8, 458, infra.

ACT NO. II. OF 1887.

1887.

The Bengal Vaccination (Amendment) Act, 1887.*

Act 2.

RECEIVED L.-G.'S ASSENT ON 14TH APRIL 1886, AND G.-G.'S, 5TH MARCH 1887.

An Act to amend Bengal Act V. of 1880.

Preamble.

WHEREAS it is expedient to amend the Bengal Vaccination Act, 1880;† It is enacted as follows:—

Preliminary.

Construction.

1. This Act shall be read with, and taken as part of, the Bengal Vaccination Act, 1880.†

[Commencement] — Repealed by the Repealing and Amending Act, 1897 (V. of 1897).

Interpretation.

2. In this Act, unless there be something repugnant in the subject or context,—

" Vessel."

"vessel" includes anything made for the conveyance by water of human beings, or of property.

Vaccination of Children.

Amendment of section 3. In section 3, immediately before the last paragraph, the following shall be inserted:—

[See supra, p. 470.]

Amendment of section 4.

4. For the first paragraph of section 4, the following shall be substituted:—

[See supra, p. 471.]

Vaccination of Persons on board Vessels.

Amendment of section 13.

5. To section 13 the following shall be added:—

[See supra, p. 474.]

Miscellaneous.

New section to follow section 13.

6. After section 13, the following section shall be inserted:—

[See supra, p. 475.]

7. To section 28, after clause (c), the following clause shall be added:—

[See supru, p. 479.]

^{**} This short title was added by Act I. of 1903. † Ben. Act V. of 1880.—See supra, p. 467.

942 BENGAL VACCINATION AMENDMENT ACT.

1888. Act 8.

New sections to follow section 29.

8. After section 29, the following sections shall be inserted:—

[See supra, p. 480.]

THE FIRST SCHEDULE.

See supra, p. 358. [See supra, p. 481.]

ACT NO. 111 OF 1888.

The Howrah Bridge Act, Amendment Act, 1888.

An Act to amend the Howrah Bridge Act, IX. of 1888.

Whereas it is expedient to empower the Lieutenant-Govern
or of Bengal to remit the payment of the tolls, fees and charges levied under the provisions of the Howrah Bridge. Act of 1871* upon all passengers, animals, vehicles and goods using or conveyed upon the said bridge, and to re-impose the payment of the fees on any goods or any passengers which may have been exempted from such payment under section 4 of the said Act; It is hereby enacted as follows:—

Short title,

1. This Act may be called the Howrah Bridge Act Amendment Act, 1888.

Construction of Act.

2. It shall be read with, and taken as part of, Bengal Act IX of 1871.*

[Commencement].—Repealed by the Repealing and Amending Act, 1903 (1. of 1903), new known as the Amending Act, 1903.—Vide Act X. of 1914, Sch. II.

3. For the proviso to section 3 the following proviso shall be substituted:—

[Vide p. 194, supra.]

4. After the proviso to section 4 the following proviso shall be added:—

(Printed at p. 195, supra.)

^{*} Ben. Act IX. of 1871.

ACT NO. II. OF 1889.*

1889.

The Private Fisheries' Protection Act, 1889.

RECEIVED.L.-G.'S ASSENT ON 15TH MAY, AND G.-G.'S. 15TH JUNE, 1889.

An Act for the Protection of the Right of Fishing in Private Waters.

Whereas it is expedient to provide for the protection of private rights of fishery; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Private Fisheries' Protection Act, 1889.

Interpretation-clause

2. In this Act—

" Fish."

"fish" includes shell-fish and turtles;

"fixed engine" means any net, cage, trap, or other contri-"Fixed engine." vance for taking fish, fixed in the soil, or made stationary in any other way;

"Private waters."

"private waters" means waters-

- '(a) which are the exclusive property of any person; or
- (b) in which any person has an exclusive right of fishery, and in which fish are not confined, but have means of ingress or egress.

Penalties

3. Any person who-

- (a) fishes in any private waters not having a right to fish therein;
- (b) erects, places, maintains, or uses any fixed engine in private waters, or puts, or knowingly permits to be put, therein any matter to, the purpose of catching or destroying fish without the permission of the person to whom the right of fishery therein belongs;

shall be guilty of an offence, and shall be punished, for a first offence, with a fine not exceeding fifty rupues;

and, for a subsequent offence, with imprisonment, which may be simple or rigorous, for a term not exceeding one month, or with a fine not exceeding two hundred rupees, or both:

Provided that nothing herein contained shall apply to acts done by any person in the exercise of a bona fide claim of right, or shall prevent any person from angling with a rod and line, or with a line only, in any portion of a navigable river.

^{*} Ben. Act II. of 1889 has been extended to the Chief Commissionership of Assam by notification under s. 5 of the Scheduled Districts Act (XIV. of 1874).—See Notification No. 89, dated September 10, 1889, published in the Gasette of India, 1889, Pt. I., p. 517, and in the Assam Gasette, 1889, Pt. II., p. 424.

1889. Act 4.

- 4. (r) Any fixed engine erected, placed, maintained, or used Forfeiture of fixed engine in contravention of the last preceding section, and any fish taken by means of such engine, or otherwise in contravention of this Act, shall be forfeited.
 - (2) And such fixed engine may be removed, or taken possession of, by the Magistrate of the district* or such person as he empowers in this behalf.
- 5. Whoever enters upon land in the possession of another, or upon private waters, with intent to commit any of the offences specified in section 3, waters, with intent to commit any of the offence specified in section 3, shall be punished with a fine not exceeding of the runner.

Procedure.t

Offences under this Act considered "cognizable offences.

6. Offences committed under this Act shall be considered to be "cognizable offences" as defined in the Code of Criminal

ACT NO. IV. OF 1889.

The Calcutta Burial Boards Act, 1889. ‡

RECEIVED L.-G.'S ASSENT ON 15TH JULY, AND G.-G.'S 2ND SEPTEMBER, 1889.

An Act to provide for the Appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the Interment of Persons other than Christians or Muhammadans.

WHEREAS it is expedient to make better provision for the superintendence, management, or control of the Muhammadan burial-grounds, and for the interment of persons other than Christians or Muhammadans in Calcutta, as defined in the Calcutta Municipal Consolidation Act of 1888; 1

It is hereby enacted as follows:-

- 1. [Commencement of Act].—Repealed by the Repealing and Amending Act, 1903 (1. of 1903). Now known as the Amending Act, 1903.—Vide Act X. of 1914, Sch. II.]
- 2. In this Act, "public Muhammadan burial-ground" includes

 Definition of 'public Mu.
 those Muhammadan burial-grounds enumerated in the First Schedule, and any others in

^{*} The expression "Magistrate of the district," shall now be read as "District Magistrate."—See s. 3 (2) of the New Code of Criminal Procedure (Act V. of 1898).

[†] See (now) Act V. of 1898, s. 4, cl. (f).

† This short title was given by the Repealing and Amending Act, 1903 (I. of 1903).

This Act is now known as the Amending Act, 1903.—Vide Act. Y. of 1914, Sch. II.

§ Ben. Act II. of 1888, since superseded by the new Act (Ben. Act III. of 1899).

which Muhammadans generally of any particular sect are in the habit of burying their dead.

1889. Act 4.

3. The Local Government may, by a notification published in Local Government may the Calcutta Gazette, appoint a Muhamappoint a Burial Board for Calcutta.

Constitution of Board.

4. (1) The Board shall be constituted as follows:—

the Chairman for the time being of the Corporation of Calcutta;

the Health Officer for the time being of Calcutta;

an officer of the Public Works Department appointed by the Local Government;

and not less than six, or more than nine, other members who shall be Muhammadans appointed by the Local Government.

(2) The Local Government may, from time to time, relieve any member of the Board appointed by it of his functions as such member.

Chairman of Calcutta Corporation to be ex-officio Chairman of Board

Calcutta shall be ex-officio Chairman of the Board.

6 The superintendence management.

Superintendence management, or control of public Muhammadan burial prounds enumerated in the First Schedule to be exercised by Board

6. The superintendence, management, or control of the public Muhammadan burial-grounds enumerated in the First Schedule, shall, subject to the provisions of this Act, be exercised by the Board:

5. The Chairman of the Corporation of

Provided that the Muhammadan Burial Board shall not exercise control over such portion of any public Muhammadan burial-ground as the Local Government may declare to have been hitherto set apart for the burial of persons other than Muhammadans.

Local Government may place other public Muhammadan burial-grounds under superintendence, management, or control of Board

- 7. The Local Government may, by an order published in the Calcutta Gazette from time to time, place any other public Muhammadan burial-ground in Calcutta or its vicinity under the superintendence, management, or control of the Board.
- 8. (1) The superintendence, management, or control of any Provision for making over private burial-grounds to charge of Board.

 Muhammadan burial-ground situate in, or in the vicinity of, Calcutta, may, with the sanction of the Local Government, be transferred by the owner or custodian thereof to the Board upon such terms as may be arranged between the Board and such owner or custodian.

Act 4

- (2) And such burial-ground shall thereupon be managed in all respects as a public Muhammadan burial-ground subject to the provisions of this Act.
- 9. The Board may, with the sanction of the Local Government,
 Power in Board to create
 new burial grounds, or extend those already in existence by purchase of land.

 Calcutta, whether previously used as a burialground or not, with the object of extending
 any public burial-ground under its charge,
 or of forming a new public burial-ground.

Power to withdraw burialgrounds from superintendence, management, or control of Board.

- 10. The Local Government may, in its discretion, at any time, withdraw any burial-ground from the superintedence, management, or control of the Board.
- Board to receive an ac. given in respect of the use of such burialcount for fees and grants. grounds the digging of graves, and the erection of monuments therein, and such grants as the Local Gevernment may, from time to time, place at their disposal; and shall pay
 thereout all charges and expenses incurred by them in tue management and superintendence of the same, and shall submit accounts of
 such receipts and expenditure once in every year to the Local Government in such form and manner as the Local Government may direct.
- 12. The Board may, from time to time, appoint all such over-Board may appoint sub. seers, clerks, subordinate officers, and serordinate establishment. vants as they shall think necessary and proper to assist in carrying out the purposes of this Act; and may, from time to time, remove any of such persons, and appoint others in their place.
- Power to make rules.

 The Board may, with the sanction of the Local Government, from time to time make such rules consistent with the purposes of this Act as they think necessary for any of the following purposes; that is to say,—
 - (a) for regulating the times when the Board shall meet, and the procedure to be observed at their meetings;
 - (b) for the preservation, repair, and, when necessary, the removal of existing monuments, and for regulating the dimensions of new monuments in any burial-ground under their charge;
 - (c) for regulating the scale and mode of payment of fees, charges, and other dues in respect of interments in any burial-ground, and for the expenditure of the same;
 - (d) for directing the manner in which, and the persons by whom, all works within any such burial ground shall be executed; and

- '(e) for otherwise carrying out the purposes of this Act.
- 1889.
- (2) And may, from time to time, with the sanction aforesaid, Act 4. vary, alter or revoke any such rules so made.
- (3) All-rules so made, and variations, alterations, or revocations of rules, shall be published in the Calcutta Gasette.
- 14.* (1) The Local Government may, by notification in the Appointment of Burial Calcutta Gasette, appoint a Burial Board Board for any community. for Calcutta, for any community other than the Christian and Muhammadan communities.
 - (2) Every such Board shall consist of—
 - (a) the Chairman of the Corporation of Calcutta.
 - (b) the Health Officer of the Corporation of Calcutta.
 - (c) an officer of the Public Works Department to be nominated from time to time by the Local Government, and
 - (d) not less than three or more than six members representing the community concerned, to be nominated from time to time by the Local Government.
- (3) The Chairman of the Corporation of Calcutta shall be the Chairman of every such Board.
- 15.* The Local Government may, by notification in the CalRemoval of nominated cutta Gasette, declare that any nominated
 members of Boards apmember of any Burial Board appointed
 pointed under section 14. under section 14 shall cease to be a member
 if he has, without the leave of the Chairman of the Board, been
 absent from, or is unable to attend, the meetings of the Board
 for any period exceeding six consecutive months.
- 16.* If any nominated member of any such Board be permitted

 Filling of casual vacan. by the Chairman of the Board to absent himself. self from meetings of the Board for any period exceeding three months, or dies, or resigns his membership, or ceases to be a member in pursuance of a notification published under section 15,

the vacancy shall be filled by a fresh nomination under section 14.

- 17.* (1) The term of office of the first members nominated to

 Term of office of nominary such Board shall commence on such
 day as thay be appointed by the Local Government.
- (2) Subject to the provisions of section 4, sub-section (2) and section 15, the term of office of members nominated to any such Board shall be as follows:—

^{*} These sections be to 119 were substituted for the original section 14, by the Calcutta Burial Beards (Amendment) Act, 1913 (Ben. Act I. of 1913), s. 2.

1889. Act 4

- (a) a member nominated in pursuance of section 16 in the place of a member who has been permitted to absent himself from meetings of the Board—the period of the absence of the latter member; and
 - (b) other members—five years.
- (3) Any nominated member shall be eligible for re-nomination at the end of his term of office.
- 18.* The Local Government may place under the superintend-Transfer of burial ence, management or control of the Burial Board appointed for any community under section 14—
 - (a) any portion of a public Muhammadan burial ground which is excluded from the control of the Muhammadan Burial Board by the proviso to section 6, and which is used for the interment of persons belonging to such community, and
 - (b) any other public burial-ground or portion thereof, which is used, or is intended to be used, for the interment of persons belonging to such community.
- 19.* Section 4, sub-section (2), and sections 8 to 13 shall apply
 Applications of sections
 Mutatis mutandis, to all Burial Boards
 appointed under section 14 and to burialagement or control of such Boards as well as to the Muhammadan
 Burial Board and Muhammadan burial grounds.

THE FIRST SCHEDULE.

(See section 6.)

SCHEDULE OF PUBLIC MUHAMMADAN BURIAL-GROUNDS PLACED UNDER SUPERIN-TENDENCE, MANAGEMENT, OR CONTROL OF BOARD.

- (1) Chopdar Bagan Burial-ground, No. 54, Upper Circular Road, and Nos. 26 and 27, Manicktollah. Area of public portion, 3 bighas, 12 cottahs, 3 chittacks, more ρr less.
- (2) Meah Bagan Burial-ground, Nos. 52 and 53, Manicktollah. Area of public portion, 3 bighas, 1 cottah, 7 chittacks, more or less.
- (3) Khodadad's Burial-ground, No., 15, Moonsheepara Lane. Area, 4 bighas, 18 cottahs, 7 chittacks, more or less.
- (4) Rahim ud-deen Moonshee's Burial-ground, No. 20, (anal Road, West. Area, 5 bighas, 16 cottahs, 7 chittacks, more or less.
- (5) Gobra Gorastan, No. 1, Gobra Road. Area, 6 bighas, more or less.
- (6) Talbagan Burial ground, No. 6, Tiljullah 1st Lane. Area, 10 bighas, 11 cottahs, more or less,

^{*} These sections 14 to 19 were substituted for the original section 14 by the Calcutta Burial Boards (Amendment) Act, 1913 (Ben. Act I. of 1913), %. 2.

(7) Talbagan Khoyratee Gorastan, No. 7, Tiljullah 1st Lane, Area, more or less, 1 bigha, 3 cottahs.

1890. Act 2.

(8) New Kasiabagan Burial-ground, Tiljullah 1st Lane. Area of Muhammadan portion, 12 bighas, more or less.

- (9) Sola-anna Kobrastan, No. 70, Ekbalpore Road. Area, 17 bighas, 18 cottahs, more or less.
- (10) Moonshee Ahmud Begg Ke Kobrastan, Halsu Talao, Ramnugger Lane. Area, 4 bighas, more or less.

[THE SECOND SCHEDULE] .-- Repealed by Ben. Act 1. of 1913.

ACT NO. II, OF 1890.

The Bengal Vaccination (Amendment) Act, 1890.*

RECEIVED L.-G.'S ASSENT ON 1ST FEBRUARY, AND G.-G'S, 4TH MARCH, 1890.

An Act to amend the Bengal Vaccination Act, 1880.

WHEREAS it is expedient to amend the Bengal Vaccination . Act, 1880;† It is hereby enacted as fol-Preamble. lows :--

1. [Commencement of Act].—Repealed by the Repealing and Amending Act, 1903 (I. of 1903), now known as the Amending Act, 1903.-Vide Act X. of 1914, Sch. 11.

[Note.—The amendments made by ss. 2 to 4 of this Act are embodied in Ben. Act V. of 1880, printed at p. 467, supra.]

Rules and orders in force before passing of Act to be in force in Calcutta as defined by Act II. (B. C.), 1888.

5, (1) All rules made and orders issued under section thirtythree of the Bengal Vaccination Act, 1880,† relating to the Town of Calcutta, in force immediately before the passing of this Act, shall be deemed to be in force in Calcutta as defined by the Calcutta Municipal Consolidation Act, 1888. 1

- (2) The Local Government may, from time to time, modify or cancel such rules and orders.
- (3) And all such rules and orders relating to the Suburbs of Calcutta are hereby repealed.

^{*} This short title was given by the Repealing and Amending Act. (1. of 1903). Sch. I. That Act is now known as the Amending Act, 1903.—Vide Act X. of 1914.

[†] Ben. Act V. of 1880 .- See p. 467, supra. Ben, Act II. of 1888. (Since repealed by the new Calcutta Municipal Act.-Ben. Act III. of 1899.)

ACT NO. III. OF 1890.

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ACT NO. III. OF 1890.

1890 Act 8

The Calcutta Port Act, 1890.*

RECEIVED L.-G.'S ASSENT ON 22ND MARCH, AND G.-G.'S, 15TH MAY, 1890.

An Act to consolidate and amend the Law relating to the Port of Calcutta, and to the Appointment of Commissioners for the said Port.

WHEREAS it is expedient to consolidate and amend the law relating to the Port of Calcutta, and to the appointment of Commissioners for the said Port; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title and commencement.

1. (1) This Act may be called the Calcutta Port Act, 1890.

- (2) It shall come into force on such date† as the Local Government may direct, not being more than three months after the date† on which it may be published in the Calcutta Gazette, with the assent of the Governor-General.
 - 2. (1) On the commencement of this Act, the enactments specified in the First Schedule shall be repealed to the extent mentioned in the third column thereof.
- (2) But this repeal shall not revive any office, authority, or thing abolished by any such enactments, or affect the validity of anything done or suffered, or any right, title, obligation, or liability accrued, before the commencement of this Act.
- (3) All rules and bye-laws prescribed, appointments made, powers conferred, and notifications published under any such enactments, shall, so far as may be, be deemed to be respectively prescribed, made, conferred, and published under this Act
- (4) Any enactment or document referring to any enactments hereby repealed shall be construed to refer to this Act, or the corresponding portion thereof.
- (5) Nothing herein contained shall deprive any person of any right of property, or other private right, except as hereinafter expressly provided.

Definitions-

3. In this Act, unless there be something repugnant in the subject or context,

[•] Ben. Act IV. of 1895 should be read with and taken as part of this Act.—See Ben. Act IV. of 1895, s. 1.
† The first June 1890.—Vide Calcutta Gazette, Pt. I., p. 509.

" Dock."

" Goods."

1890. Act 3.

" The Commissioners."

- (1) "The Commissioners" shall mean "the Commissioners of the Port of Calcutta" hereinafter incorporated:
- "Commissioner." (2) "Commissioner" shall mean a member of the said Corporation:
 - (3) "Dock" shall include all basins, cuts, quays, wharves, warehouses, tramways, and other works, and things appertaining to any dock:
 - (4) "Goods" shall include wares and merchandize of every description:
- "Land." (5) "Land" shall include the bed of the river below high-water-mark:
- (6) "Master," when used in relation to any vessels, means any person not being a pilot, harbour-master, or assistant harbour-master having for the time being the command or charge of such vessel.
 - (7) "Pier" shall include any stage, stairs, landing-place, jetty, floating barge, or pontoon, and any bridges or other works connected therewith:
 - "Port." (8) "Port" shall mean the Port of Calcutta:
 - (9) "Vessel" shall include any ship, barge, boat, raft or craft, or any other thing whataver, designed or used for the transport upon water of passengers or goods:
- (10) "Wharf" shall include any bank of the river which may
 "Wharf." be improved to facilitate the loading or unloading of goods, and any foreshore used
 for the same, and any wall enclosing or adjoining such bank or
 foreshore.

CHAPTER II.

OF THE CONSTITUTION OF THE PORT COMMISSION.

4. The duties of carrying out the provisions of this Act shall,
Provisions of Act to be carried out by body of Commissioners.

Subject to such conditions and limitations as are hereinafter contained, be vested in a body of Commissioners to be called "The Commissioners for the Port of Calcutta," and such body of Commissioners shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Constitution of Commissioners.

5. There shall be "sixteen"* Com. 1890. missioners, that is to say-

Act &

. Chairman,

·Vice-Chairman,

"Nine"* elected Commissioners,

Five nominated Commissioners.

6. (1) Of the elected Commissioners—

" Six "† shall be elected by the Bengal Election of Commis-Chamber of Commerce, sioners.

one by the Calcutta Trade's Association,

one by the Commissioners of the Town of Calcutta, and

one by such body or bodies or firms as the Local Government shall, from time to time, select as best representing the interests of the native mercantile community.

- (2) The election shall be made in such manner as may be determined by the electing bodies, subject to the approval of the Local Government; and the name of every person so elected shall be published in the Calcutta Gazette.
- 7. In the event of default being made by the electing bodies aforesaid in electing any Commissioner In default of election, under the last preceding section within the Local Government to apperiod hereinafter prescribed in this behalf. it shall be lawful for the Local Government to appoint a person; and the person so appointed shall be deemed to be a Commissioner as if he had been elected.

Local Government to appoint nominated Commissioners, Chairman, and Vice-Chairman by notification.

- 8. The nominated Commissioners, the Chairman, and Vice-Chairman, shall be appointed by the Local Government by notification in the Calcutta Gasette.
- 9. The Chairman or the Vice-Chairman, as the case may be, shall continue to hold office until the Local Term of office of Chair-Government cancels his appointment, or man and Vice-Chairman. appoints his successor.
- 10. Every person who shall be elected or appointed to be a Commissioner shall, subject to the provi-Term of office of Comsions hereinafter contained, continue to missioners. hold the office to which he shall be elected or appointed for the term of two years; but may, at the expiration of such term, be reelected or re-appointed.

1905, 8. 3.

The words "sixteen" and "nine" were substituted for the words "fifteen" and "eight" respectively by Ben. Act IV. of 1905, s. 2.
† The word "six" has been substituted for the word "five" by Ben. Act IV. of

payable.

1890. Act 8.

Local Government to determine salary and allow-ances of Vice-Chairman;

also to determine whether any fees should be paid to Chairman and Commissioners tendance at meetings.

11. It shall be lawfull for the Local Government by an order, from time to time, to determine whether any and what salary and allowances shall be paid to the Vice-Chairman; and whether any and what fees shall be paid to the Chairman and Commissioners for attendance at meetings for transaction of the business of the Trust: and in the order directing the salary, allowances, and fees to be paid as aforesaid, the Local Government may declare any conditions and restrictions upon and under which such salary, allowances, and fees shall be

- 12. It shall be lawful for the Local Government to grant leave Power to grant leave of absence to Vice-Chair
 - of absence to the Vice-Chairman, and to appoint a person to officiate for such Vice-Chairman during his absence on leave.
- 13. (1) The Local Government shall also fix the amount of leave-allowance to be granted to the Vice-Local Government to fix leave-allowance of Vice-Chairman, and the salary to be paid to the Chairman. person who shall be appointed to his office.
- (2) Any person appointed under the last preceding* section to act for the Vice-Chairman shall, while so acting, have all the powers, and be liable to all the restrictions and limitations, which the Vice-Chairman under this Act has and is liable to.
- 13A.† It shall further be lawful for the Local Government to fix, on application made to it by the Pension for Vice-Chair-Commissioners in that behalf, the amount of pension, gratuity or compassionate allowance (if any) which shall be paid to the Vice-Chairman on his retirement from office, and to determine the conditions under which the said pension, gratuity or compassionate allowance shall be so payable:

Provided as follows:-

- (a) the amount of any such pension, gratuity or compassionate allowance shall in no case, without the special sanction of the Government of India, exceed what would be admissible in the case of Government servants of similar standing and status, and
- (b) the conditions aforesaid shall not, without similar sanction be more favourable than those for the tine being prescribed for such Government servant.

^{*} In s. 13, sub-s. (2), the italicized words have been substituted for the word "this" by Ben. Act IV. of 1895, s. 2. † S. 13A has been added by Ben, Act I, of 1915.

14. All vacancies in the number of the Commissioners,
Vacancies in number of whether elected or appointed under this
Commissioners to be filled Act, shall be filled by election or appointwithin one month.

Act, shall be filled by election or appointment, as the case may be, within one month.

1890. Act 3.

- 15. (1) A temporary vacancy caused by the absence on leave

 Mode of filling temporary of any Commissioner for a period not less
 than three months, nor more than one year,
 shall be filled up by election or appointment in the manner hereinbefore provided.
- (2) A person elected or appointed under this section to fill a Term of temporary ap. temporary vacancy shall hold office until appointments. the expiry of the term of leave granted to the Commissioner whose place he fills.
- .16. In the case of the death, resignation, or disqualification

 Mode of filling casual of any Commissioner, a person shall forthvacancies. with be elected or appointed in his stead in
 the manner hereinbefore provided.
- 17. Every person who, at any time, after his election or ap-Disqualification of Com. pointment as a Commissioner, shall be missioners. absent from six consecutive meetings without having the permission in toat behalf of the Commissioners, or who, having such permission, shall be absent from the meetings for a period exceeding one year;
- (a) and every person who, at any time, after his election or appointment as a Commissioner, shall accept or agree to accept any office or place of profit under this Act, except the office of Vice-Chairman; or
- (b) who shall, save with the sanction of the Local Government, participate or agree to participate in the profits of any work done by order of the Commissioners, or be concerned or participate in the profits of any contract entered into with the Commissioners,

shall thenceforth cease to be a Commissioner, and his office shall thereon become vacant:

Provided that no Commissioner shall vacate his office by reason only of his being a shareholder in any Company registered under the provisions of any Act for the registration by joint-stock companies, passed by any Indian Legislature or by the Parliament of the United Kingdom or incorporated by Act of Parliament, Royal Charter, or otherwise, with which the Commissioners may enter into any contract, or by reason of his being interested in any loan of money to the Commissioners:

Provided also that no Commissioner shall vacate his office by reason of his being interested in any purchase or lease of land or premises, the sale or lease of which the Commissioners may determine on at a meeting under the provisions of this Act; or of his being interested in any agreement under which facilities may be

granted for the landing and shipment of goods in return for stipulated income guaranteed to the Commissioners, in consideration of their undertaking to construct or provide such facilities.

CHAPTER III.

OF THE BORROWING POWERS OF THE COMMISSION.

- 18. If the Local Government shall, with the previous sancPower to raise money for tion of the Governor-General in Council, works. by an order published in the Calcutta Gasette so direct, it shall be lawful for the Commissioners in meeting, from time to time, to raise money for the estimated cost of any of the following purposes sanctioned by the Local Government, to such extent as it may, from time to time, direct:—
 - (a) the construction and repair of works and erections necessary or expedient for carrying out the purposes of this Act;
 - (b) the acquisition of immoveable and moveable property requisite for such construction or repair as aforesaid; and
 - (c) the payment of such salaries, fees, and expenses, and such principal and interest, as may be due by the Commissioners.
- 19. When an order has been published under the last prePower to borrow moneys ceding section, it shall be lawful for the
 by way of debenture. Commissioners in meeting to borrow [within such dates as may be approved by the Governor-General in
 Council]* any sums of money the Commissioners may require for
 the objects mentioned in the last preceding section by way of
 debenture on—
 - (a) the security of the property now vested, or which may hereafter become vested, in the Commissioners, and
 - (b) the tolls, dues, rates, rents, and charges leviable under this Act,

less the sum of five-and-a-half lakhs set apart by the Commissioners as a reserve fund prior to the passing of this Act; and the further sums set apart by the Commissioners as a sinking fund, for the purpose of paying off the loans contracted under the authority of this Act or any enactment hereby repealed.

20. "(1) All debentures which are issued under the authority
Forms and transferability of this Act shall be in such form as the
of debentures.

Commissioners with the previous consent
of the Local Government shall from time to time determine:

^{*} The words within brackets in ss. 19 and 22 were inserted by Ben, Act II. of 1907.

Provided that, in the case of starting loans, the form of 1890. debenture shall, before issue, be approved by the Governor-General in Council."*

- (a) The holder of any debenture in any form duly authorized under this section may obtain in exchange therefor, upon such terms as the Commissioners shall from time to time determine, a Debenture in any other form so authorized.
- (3) Every debenture issued by the Commissioners shall be transferable in such manner as shall be therein expressed.]†
- (4)† The right to sue in respect of the moneys secured by any Right to sue on debenture of such debentures, or of the debentures vested in holders. issued under the authority of any enactment hereby repealed, shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.
- 20A.1 All coupons attached to debentures issued under the authority of this Act shall bear the signature Signature of coupons of the Vice-Chairman, and such signature may attached to debentures. be engraved, lithographed or impressed by any mechanical
- 21. All loans contracted by the Commissioners, whether by way of debentures or otherwise under this Loans contracted by Com-Act, shall be a first charge on the property missioners to be first charge on property. now vested, or which hereafter may become vested, in the Commissioners; and on the tolls, dues, rates, rents, and charges leviable under this Act as provided by section 10.
- 22. The Commissioners in meeting may at any time, with the Power to raise money for previous sanction of fand within such dates as may be approved by \ the Governorpayment of loans. General in Council, raise, either by borrowing from the Secretary of State for India in Council, or by way of debenture, any money that may be required to pay any amount for the time being due under the authority of this Act or any enactment hereby repealed.
- 23. Unless the Local Government, with the previous sanction Loans to be contracted in of the Governor-General in Council, shall, by an order published in the Calcutta India, and in Indian currency. Gazette, otherwise direct, all loans contracted by the Commissioners under this Act shall be contracted in India, and in the Indian currency.
- 24. (1) The Commissioners shall, in respect of each loan contracted by them by way of debenture Establishment of sinking under sections 19 and 22 of this Act, set

Sub-s. (1) to s. 20 has been substituted by Ben. Act V. of 1915.

[†] The first three paragraphs of s. 20 were substituted by Ben. Act II. of 1907 and the sub-s. (2) has been renumbered sub-s. (4).

^{\$} S. 20A has been added by Ben. Act I. of 1908. The words within brackets in ss. 19 and 22 were inserted by Ben. Act II. of 1907.

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aside half-yearly, out of their income, before making any disbursements, a sinking fund of such an amount as will suffice to liquidate each such loan within [within* such period, not exceeding sixty years, from the date of the contracting of the same as the Governor-General in Council may in each case direct].

(2) The Commissioners in meeting may, at any time, apply Application of sinking the whole or any part of a sinking fund und. set apart under this section, in or towards the discharge of the moneys for the payment of which the fund has been established:

Provided that they pay into the fund in each year, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.

- (3) Such sinking fund shall be invested in the promissory Investment of sinking notes and other securities of the Government.

 ment of India, or in the debentures issued by the Commissioners under this Act, in the names of two trustees, one being the Commissioners, and the other a person to be appointed by the Local Government.
- 24A.‡ The sinking fund established for the liquidation of any Annual examination of loan shall be subject to annual examination sinking fund. by the Accountant General, Bengal, who shall ascertain whether the cash and the current value of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon.

The Commissioners shall pay forthwith into the sinking fund any amount which the Accountant General may certify to be deficient, unless the Governor-General in Council specially sanctions a gradual re-adjustment

- Power to borrow moneys from time to time, to borrow moneys from the Secretary of State for India in Council, at such rate of interest and upon such terms as to the time of repayment, and otherwise, as the Governor-General in Council may approve, for the construction, equipment, maintenance, and management of any works, or arrangements sanctioned by the Local Government under this Act.
- 26. In case of default of payment of any interest, the Government how to proceed on default of payment have the same remedies as may be available to other debenture-holders of the Commis-

‡ S. 24A has been added by Ben, Act il. of 1907.

^{*} The word "within" is superfluous.

[†] The words within square brackets have been added by Ben. Act II. of 1907.

sioners under this Act; but nothing in this Act shall be deemed to confer upon the said Secretary of State for India in Council any prior or greater right than that conferred upon other debenture-holders of the Commissioners under this Act.

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27. It shall be lawful for the Commissioners in meeting, if

Power to repay loans be. they think fit, out of any moneys which may
fore due date. come into their hands under the provisions
of this Act, and which can be so applied without prejudicing the
security of the other debenture-holders of the Commissioners under
this Act, to repay to the said Secretary of State for India in Council
any sum which, for the time being, may remain due to him under
the provisions of this Act for principal; although the time fixed
for the repayment of the same shall not have arrived:

Provided that no such repayment shall be made of any sum less than ten thousand rupees; and that, if such repayment is made, the amount of interest in each succeeding half-yearly instalment shall be adjusted, so as to represent exactly the interest due on the outstanding principal.

CHAPTER IV.

OF THE GENERAL POWERS OF THE COMMISSION.

Part 1.—Of the Duties of the Commission.

- 28. (1) No act or proceeding of the Commissioners shall be
 Acts or proceedings of invalidated or illegal in consequence only
 Commissioners not to be invalidated in consequence of there being a vacancy in the number of the Commissioners at the time of doing or executing such act or proceeding.
- (2) All proceedings of the Commissioners, or of any person Proceedings not to be in- acting as a Commissioner, in the bond fide validated by informality in election or appointment. Shall, notwithstanding it be afterwards discovered that there was some defect in the election or appointment of the Commissioner or person acting as aforesaid, be as valid as if every such person had been duly elected or appointed to be a Commissioner.
- 29. The Commissioners may, from time to time, in accordance Commissioners may apwith a resolution passed at a meeting, appoint Committees.

 point Committees of their number for carrying into effect any part of the provisions of this Act, with such powers, and under such instructions, directions, or limitations as by such resolution shall be defined; and, on any such Committee, three members shall be a quorum: and the Commissioners in meeting shall have power to alter or discontinue any such Committee.

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30. (1) The Commissioners shall, from time to time, prepare, Commissioners to prepare, and in meeting sanction, a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act.

(2) Such schedule shall also set forth the amount and nature of the salaries, fees, and allowances which the Commissioners in meeting sanction for each such officer or servant:

Provided that artisans, porters, and labourers, and sirdars of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section, or of "section 31"* [except clause (g) thereof]† "section 32 or section 33"* of this Act.

Power to frame rules.

31. (1) The Commissioners in meeting shall from time to time, frame rules—

- (a) for regulating the grant of leave to the officers and servants of the Commissioners;
- (b) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;
- (c) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;
- (d) for regulating the period of service of all such officers and servants;
- (e) for determining the conditions under which such officers and servants, or any of them, shall, on retirement, receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances, "and";
- (f) for authorizing the payment of contributions at certain prescribed rates, and, subject to certain prescribed conditions, to any Provident Fund which may, with their approval, be established by the officers and servants appointed under this Act: [and
- (g) for determining the conditions under which pensions, gratuities and compassionate allowances may be paid to any of such officers or servants injured, or to surviving relatives of any such officers or servants killed, in the execution of their duty, whether the injury or death occurred before or after the commencement of the Calcutta Port (Amendment) Act, 1910]:§

^{*} The words and figures "section 31, section 32 or section 33" were substituted by Act I. of 1903.

[†] These words within square brackets were inserted by Ben, Act I. offigio.

Omit "and"

I The words within brackets have been added by Ben. Act 1. of 1910.

Provided that officers and servants who were appointed by Government previous to the passing of the Calcutta Port Improvement Act, 1870, and whose salaries were paid from the fund known as "The Calcutta Port Fund," and who have continued in the service of the Commissioners appointed under the said Act, and of the Commissioners constituted by this Act, shall be entitled to retiring pensions, gratuities, or compassionate allowances at the same rates, and subject to the same conditions as may, from time to time, be applicable to the servants of Government of similar standing and status.

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[(2) In the event of any question arising as to the right of
Local Government to any officer or servant, or any surviving reladetermine right to pension,
etc.. gratuity or compassionate allowance referred to in clause (e) or clause (g), or as to the amount thereof, such
question shall be determined by the Local Government.]*

Rules not to take effect until confirmed by Governor-General in Council.

- (3) Rules made under clauses (a) to (e) (both inclusive) [or clause (g)]† shall not take effect, unless and until they have been confirmed by the [Local Government.]‡
- Vice-Chairman to exercise certain powers with respect to officers and servants of Commissioners.

 ing leave to the officers and servants of the case of officers and servants whose monthly salary does not exceed two hundred rupees; and in every other case by the Commissioners in meeting.
- 32A.§ Notwithstanding anything contained in section 57, all fines realized under the last preceding section shall be disposed of in such manner as the Commissioners may think fit.
- Commissioners in meet. or servant of the Commissioners otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance [or of granting a pension, gratuity or compassionate allowance to any officer or servant injured, or to surviving relatives of any officer or servant killed, in the execution of his duty] † shall, subject to the provisions of section

31, be excercised by the Commissioners in meeting.

This sub-section was substituted for original sub-section (2) by Ben. Act I of 1910.

Words within brackets have been added or substituted by Ben. Act I of 1910.

[†] Words within brackets have been added or substituted by Ben. Act I. of 1910.

\$ The words within brackets have been substituted by Ben. Act V. of 1915.

\$ S. 32A has been inserted by Ben. Act IV. of 1805, s. 3.

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Certain orders of Commissioners subject to previous sanction of Local Government.

34. (1) Every order made by the Commissioners under [section 31, section 32 or section 33)* shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Commissioners, or to any other officer whose monthly salary [amounts to or exceeds one thousand rupees]† [or to any surviving relative of any officer referred to in this section]* be subject to the previous sanction of the Local Government.

(2) In this section the word "Engineer" means the Engineer "Engineer" defined.

of highest grade on the Commissioners' ordinary staff; and also any superior officer who may, from time to time, be employed in the capacity of Consulting Engineer to the Commissioners.

Works to be constructed and carried out by Commissioners.

35.‡ The works to be constructed and carried out by the Commissioners under the provisions of this Act may include—

- (1) Docks, wharves, quays, stages, jetties and piers within the port, with all necessary and convenient arches, drains, landing places, stairs, fences, and approaches, and quarters and buildings necessary for the residence of the officers employed therefor;
 - (2) railways;
- (3) warehouse and sheds, with all necessary appliances, for receiving and storing goods lauded or to be shipped or carried, and places suitable for the sampling and selling of such goods.

(4) Laying down moorings for carrying out the purposes of this Act; and the erection of cranes, scales, and all other necessary means and appliances for loading and unloading vessels;

- (5) reclaiming, enclosing, and raising any part of the river bank or the river bed within the port, which may be necessary for the execution of the works authorised by this Act, or otherwise for the purposes of this Act;
- (6) the construction and application of dredges and other machines for clearing, deepening, and improving the river bed within the port;
- (7) the building of steam-vessels required for the purpose of towing vessels in the port;
- $\S[(7a)$ the building of vessels for the carrying of passengers and their personal effects within, or partly within and partly without, the limits of the port.]

^{*} Words within brackets have been added or substituted by Ben. Act I. of 1910. † The words within brackets have been substituted by Ben. Act V. of 1915.

[†] Clause (2) has been substituted for the original by Ben Act FW. of 1895, s. 3. 6 Clause (7a) was inserted by Ben. Act IV. of 1905.

(8) the construction of such works without the limits of the port as shall be necessary for the protection of works executed under this Act; and all such other works and appliances as may, in the opinion of the Commissioners in meeting, be necessary for carrying out the purposes of this Act."

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Government may order local survey and examination of works.

36. (1) The Local Government may, at any time, order a local survey and examination of any works of the Commissioners under this Act, or the intended site thereof.

Cost of survey and examination to be borne by Commissioners.

- (2) The cost of such survey and examination shall be borne and paid by the Commissioners out of the moneys in their hands by virtue of this Act.
- Local Government to restore, complete, or construct works on failure of Commissioners.

37. (1) If the Commissioners shall allow any work constructed by them under this Act to fall into disrepair, or shall not complete any work commenced by them or included in any estimate as aforesaid submitted and approved

of, and shall not, after due notice in writing proceed effectually to repair or complete such work under this Act, it shall be lawful for the Local Government to cause such work to be restored, completed, or constructed, either by the officers of the Local Government or any private contractor.

- Cost of restoration, &c., of works to be debt due to Government.
- (2) The cost of any such restoration, completion, or construction, shall be a charge on the works, and a debt due from the Commissioners to the Secretary of State for India in Council.

In default of execution of work, Local Government may withdraw and revoke powers of Commissioners.

38. (1) If at any time it shall appear to the satisfaction of the Local Government that the works intended to be accomplished under this Act have not been, and are not likely to be, properly carried out, or (if carried out) have not been,

and are not likely to be, properly maintained by the Commissioners. it shall be lawful for the Local Government, by a notification to be published in the Calcutta Gasette, to declare that, if, within a period of six months from the date of such notification, the Commissioners fail to take measures to the satisfaction of the Local Government for the carrying out or proper maintenance of the said works, the powers by this Act conferred on the Commissioners will, at the end of such period, be withdrawn and revoked.

- (2) And upon the expiration of the said period of six months, it shall be lawful for the Local Government, by an order published in the Calcutta Gasette, to declare such powers revoked.
- Property vested in Commissioners to be transferred to, and vested in, Her 'Majesty.

39. By such last-mentioned order, and without the necessity of any conveyance, all immoveable and moveable property, all rights of levying and recovering tolls, dues, and rates, all benefit of contracts, and all rights of suit which,

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at the time, may be vested in the Commissioners under this Act, shall be transferred to, and vested in, Her Majesty; and the rights of all creditors of the Commissioners under this Act shall continue as against the Secretary of State for India in Council to the extent of the property so transferred to, and vested in, Her Majesty.

Part 11.—Of the Mode of transacting Business, and entering into Contracts.

Meetings of Commissioners.

- 40. (1) The Commissioners shall meet, for the transaction of business, ordinarily once in every fortnight.
- (2) Such meetings shall be held upon such day and at such hour as the Commissioners shall, from time to time, determine.
- (3) At every meeting of the Commissioners five members shall constitute a quorum.
- 41. The Chairman, or, in his absence, the Vice-Chairman,
 Chairman may call special meetings of Commissioners or Committee
 call a special meeting of the said Commissioners or Committee, as
 the case may be.
- 42. (1) The Chairman or Vice-Chairman shall attend all meetChairman or Vice-Chair.
 man to attend and preside
 at all meetings of Commissioners.

 Act, unless prevented by sickness or other
 reasonable cause; and the Chairman, or, in
 his absence, the Vice-Chairman, shall preside at every such meeting.
- (2) In the absence of both the Chairman and the Vice-Chairman, the Commissioners present at any meeting may choose one of their number to preside.
- 43. The President of any meeting at which a quorum of the President may adjourn Commissioners shall be present may, with consent of the meeting, adjourn the meeting from time to time, and from place to place.
- 44. (1) Minutes of the proceedings of all meetings of the Minutes of proceedings Commissioners under this Act shall be to be kept open for inspection free of charge.

 by the President after each meeting.
- (2) The said minutes shall, at all reasonable times, be open at the office of the Commissioners to the inspection of any Commissioner without charge.
- 45. (1) Whenever necessary, the votes of the Commissioners

 Votes to be taken by Prepident. present in meeting shall be taken by the
 President, and the resolution supported by

the greater number of votes shall be deemed to be the resolution of the Commissioners at such meeting.

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(2) The President shall have a second or casting vote in all cases of equality of votes:

Provided that, when votes are taken, any Commissioner present may require that the votes given on each side shall be recorded.

- 46. A copy of the minutes of every meeting of the CommaisCopy of minutes of meet.
 ings to be preserved in Bengal Office.

 Local Government as shall, from time to time, be appointed for that purpose; and shall be preserved in the records of the office of such Secretary.
- · 47. All the powers, authorities, and duties, in and by this Act Chairman or Vice-Chair. conferred or imposed upon the Commisman may exercise certain sioners, may be exercised and performed by the Chairman or Vice-Chairman, save the powers, authorities, and duties by this Act, or by any rule, bye-law, or order made under the provisions of this Act, conferred or imposed on, or restricted to, the Commissioners in meeting:

Provided that such powers, authorities, and duties shall not be exercised by the Chairman or Vice-Chairman in contravention of any order issued or rule passed by the Commissioners in meeting.

48. The Commissioners, in accordance with a resolution passed Power of Commissioners to at a meeting may enter into contracts with enterinto centain contracts. any body corporate, registered joint-stock company, or private person, for the execution or supply by them or him, of any works, labour, materials, machines stores, or for other matters necessary for carrying into effect the trusts and purposes of this Act:

Provided always that no contract under or by virtue of which a sum greater than fifty thousand rupees may in any event be payable by the Commissioners, shall be valid without the assent of the Local Government.

Power of Commissioners in meeting in meeting to sanction works and make contracts for their execution.

49.* The Commissioners in meeting may sanction works and enter into contracts for their execution:

Provided that no new work the estimated cost of which exceeds two thousand rupees shall be commenced until a plan and estimate have been approved by the Commissioners in meeting.

50.* Notwithstanding anything contained in section 49, the Powers of Vice-Chairman Vice-Chairman may direct the execution into the execution of works. of any work which does not exceed one thousand rupees, and may enter into contracts for the execution of such works.

^{*} Ss. 49 and 50 were substituted by Ben. Act I. of 1912.

1890. Act 3. *[51. No new work, the estimated cost of which exceeds two Gertain new works sublicated to approval of Government.

lakhs of rupees, shall be commenced by the commissioners until plan and estimate thereof have been submitted to, and approved by, the Local Government.]

Commissioers may compound or c

- 53. (1) Every contract and agreement by, or on behalf of,
 Mode of executing con. the Commissioners which shall exceed the
 tracts or agreements. sum of one thousand rupees, shall be in
 writing, and signed by the Chairman or Vice-Chairman, and by
 two other Commissioners; and shall be sealed with the common
 seal of the Commissioners.
- (2) No contract nor agreement not executed as in this section is provided shall be binding on the Commissioners.
- Officer or servant not to observe or servant not to be concerned or interested in contracts or works of Commissioners.

 The Commissioners or works of the Commissioners; and, if any such officer or servant be so concerned or interested, he shall be incapable of afterwads holding or continuing in any office or employment under the Commissioners and shall forfeit and pay the snm of five hundred rupees, which may be recovered by suit by any person with full costs of suit:

Provided that nothing in this section shall aply to any person, by reason only of his being a shareholder in any registered or incorporated company which may enter into any contracts with, or execute any works for, the Commissioners; or of his being interested as a debenture-holder in any loan contracted by the Commissioners.

Part III .- Of the Property of the Commissioners.

Powers of Commissioners have power to acquire and hold immoveable as to property within or without limits of port.

ance, gift, lease, assignment, or sale from the Governor-General in Council, or the Local Government, on behalf of the Secretary of State for India in Council, or any corporate body, or any registered joint-stock company or private person; and they shall also have power in meeting to lease or sell any immoveable or moveable property, which may have become vested in, or been acquired by, them:

^{*} S. 51 has been substituted by Ben. Act V. of 1912.

Provided that no such sale or other alienation or lease of any 1890. immoveable property for any estate or interest exceeding the term of ten years, shall be valid, unless the sanction of the Local Act 3. Government to such sale, alienation, or lease shall have been first obtained.

56. It shall not be lawful for the Commissioners to demise, farm, sell, or alienate any power which, by or Powers of Commissioners in certain cases subject to under this Act, may become vested in them assent of Local Government. levying tolls, dues, rates, rents, or charges, unless the assent of the Local Government to such demise, farm, sale, or alienation shall have been first obtained.

Property and moneys of Commissioners to be held upon trust for purposes of Act.

- 57. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners, shall be held upon trust for the purposes of this Act, and not otherwise.
- 58. (1) When any land or building is required for the purposes of this Act, the Local Government, Acquisition of land or building for purposes of Act. in its discretion, may declare that the land or building is required for a public purpose; and may order proceedings to be taken for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to any law in force for the aquisition of land for public purposes.
- (2) On payment by the Commissioners of the compensation payable under such law, and of the charges Land or building so acquired to vest in Commisreasonably incurred by the Collector in respect of the proceedings thereunder, such land or building shall vest in them for the purposes of this Act.

Part IV.—Of the Assessment of the Property of the Commissioners.

- 59. For the purposes of municipal assessment, the annual value of the property vested in the Commis-Annual value of property vested in Commissioners sioners within the municipal limits of Calhow to be ascertained. cutta shall be ascertained in the following way:-
- (1) The aggregate expenditure incurred in the construction of all docks, warves, quays, stages, jetties, piers, and other works belonging to the Commissioners; also in the purchase of lands; also in the construction of offices, warehouses, and other buildings belonging to them within the limits of Calcutta, as defined by the Calcutta Mnnicipal Consolidation Act, 1888,* shall be determined.

Ben. Act II. of 1888, since superseded by Ben. Act III. of 1899 (the new Calcutta Municipal Act).

1890, Act 3.

- (2) Expenditure incurred in procuring or putting up machinery shall not be included in such aggregate expenditure.
- (3) Expenditure incurred from time to time on account of repairs necessary to maintain any works or buildings in good order shall not be included in such aggregate expenditure.
- (4) Expenditure for the purpose of materially adding to, or improving, any work or building shall be included in such aggregate expenditure.
- (5) Five per cent, on the aggregate expenditure determined in the manner hereinbefore provided shall be the annual value of the rateable property of the Commissioners within the meaning of section 122 of the Calcutta Municipal Consolidation Act, 1888.*
- 60. The sum to be paid to the Corporation of Calcutta as the Sum paid as consolidated rate on annual value to be nine-tenths of amount payable by ordinary owner.

 amount which would be payable by an ordinary owner occupying his own buildings and lands.
- Amount to be paid by four duarterly instalments due on the first day of April, the first day of quarterly instalments.

 July, the first day of October, and the first day of January for the quarters beginning with those days; and, if not so, paid, the Corporation of Calcutta shall have the same remedies for the recovery of each instalment as in the case of other rate-payers.
- 62. The annul value shall, from time to time, be determined

 Annual value to be deter.

 by the Corporation of Calcutta; and secmined by Calcutta Coporations 130, 131, 133, 135, and 136 of the
 Calcutta Municipal Consolidation Act,

 1888,* shall apply to such valuation.
- Annual value may be fixed by Local Government in man or Vice-Chairman of the Corporation of Calcutta, they may, within one month, make a reference to the Local Government: and the Local Government shall thereupon fix the annual value in accordance with the provisions of section 59; and the decision of the Local Government shall be final and valid for a period of six years.
- 64. The valuation under the provisions of this Act shall be

 First valuation when to be made, and when to take effect.

 made when the New Dock is opened to traffic; and if the annual value is fixed by the Local Government in accordance with

^{*} Ben. Act II. of 1888, since superseded by Ben. Act III. of 1899 (the new Calcutta Municipal Act).

the provisions of the last preceding section, such valuation shall take effect from the date when the special notice is given under section 133 of the Calcutta Municipal Consolidation Act, 1888.*

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- Calcutta Corporation to determine annual value of new buildings, &c., if acquired during currency of valuation.

 within Calcutta, the Corporation of this Act, any new building, dock, jetty, or other work is constructed, or any new land is acquired by the Commissioners, or any material improvement is made in any building, dock, jetty, or other work within Calcutta, the Corporation of Calcutta may determine the annual value of such new building, work, or land, or of such improvement, and may add it to the annual value previously ascertained.
- (2) The provisions of sections 59 to 63 (both inclusive) shall apply to such valuation.
- 66. At the expiration of the first valuation made under this Aunual value may be re. Act, such valuation, including any alterations newed at expiration of first made under the last preceding section, waluation. may, if so agreed upon by the Commissioners and the Corporation of Calcutta, be renewed for a further period of six years; and may similarly be renewed, from time to time, for periods of six years.
- Mode of calculating annual value of building or structure.

 where any land vested in the Commissionnual value of building or structure is erected thereon by such tenants the annual value of such building or structure, when erected, shall be 5 per cent. on the estimated present cost of erecting such building or structure, less a reasonable amount to be deducted on account of depreciation, if any.
- (2) The buildings and structures in each holding, as recorded in the rent register of the Commissioners, shall be separately valued and assessed.
- 66B.† Such building or structure may be valued annually at

 Building or structure to the discretion of the Corporation of Calbe valued. cutta, and shall be so valued on the application of the owner. When not so valued, the former valuation shall
 remain in force, from year to year, until a revaluation is made.
- 66C.† The sum to be paid to the Corporation of Calcutta as

 Sum to be paid as consothe consolidated rate payable on the annual
 value of such building or structure as determined in accordance with the provisions of the last preceding section shall be the total amount of the rates fixed under section 71
 of the Calcutta Municipal Consolidation Act, 1888.*

^{*} Superseded by Ben. Act III. of 1899.

[†] Ss. 66A to 66N have been inserted by s. 13 of Ben. Act VI. of 1895.

1890. Act 8.

- 66D.* The Corporation of Calcutta, by a notice in writing, Returns of the measure. may require the owner of any such building ments to be furnished. or structure to furnish them with returns of the measurements thereof; and the Corporation of Calcutta, or any person authorized by them in that behalf may, at any time between the hour of seven in the forenoon and sunset, enter on and inspect, survey, and measure such building or structure, after giving to such owner a notice in writing of their intention, not less than twenty-four hours previously to such entry and inspection.
- 66E.* Whoever refuses of fails to furnish any such return for Penalty for furnishing the space of one week from the day on which he shall have been required so to do, or knowingly makes a false or incorrect return, and whoever hinders, obstructs, or prevents the Corporation of Calcutta, or any person appointed by the Corporation of Calcutta, as aforesaid, from entering, inspecting, surveying, or measuring any such building or structure, shall be liable to a fine not exceeding Rs. 200 for every such offence.
- 66F.* (1) Before valuing any such building or structure in Notice before valuing to be given to the Commissioners and owner.

 that, on or after a date not less than fifteen days from the receipt of such notice by the Commissioners and the owner, such valuation will be made.
- (2) If the valuation so made exceeds the previous valuation, the Corporation of Calcutta shall include in the special notice provided for in section 66K (3) full details of the amount of such valuation.
- 66G.* If the owner of any building or structure is dissatisfied Objections how made by with a valuation made under the provisions owner. of section 66A to section 66F (both inclusive), he shall, within fifteen days after the receipt of the special notice referred to in sections 66F and 66K, deliver at the office of the Corporation of Calcutta a notice in writing stating the grounds of his objection.
- 66H.* (1) All such objections shall be entered in a register to be maintained for the purpose, and, on receipt of any objection, notice shall be given to the objector of a day and place when his objection will be investigated.
- (2) On the day and place notified, the Chairman or Vice-Chairman of the Corporation shall hear the objection, and such hearing shall be in the presence of the objector, if he shall ap-

^{*} Inserted by s. 3 of Ben, Act VI. of 1895.

pear. The Chairman or Vice-Chairman of the Corporation may also, for reasonable cause, at any time, adjourn the investigation.

1890. Act 3.

- (3) The order passed on such objection shall be recorded in the register of objections, together with the date of such order.
- 661.* (1) The owner of such building or structure, if disAppeal from decision of satisfied with the order passed on his obChairman. jection, may appeal to the Court of Small
 Causes having jurisdiction in the place where such building or
 structure is situated. Such appeal shall be presented to the Court
 of Small Causes within thirty days from the date of the order
 passed under section 66H, and shall be accompanied with an
 extract from the register of objections containing the order objected to.
- (2) No appeal shall be admitted, unless an objection has first been taken in accordance with the provisions of section 66G.
- 66J.* The valuation by the Corporation of Calcutta, when Valuation and adjudica. no appeal therefrom is made, as hereintion to be final. before provided, and the adjudication of any appeal under the last preceding section, when such appeal is made, shall be final and binding.
- 66K.* (1) The valuation so made by the Corporation of Assessment, assessment. Calcutta, subject to such alterations as may, book, and special notice. from time to time, thereafter be duly made, shall be entered in a book to be called the assessment-book, and to be kept at the office of the Corporation, and in the same form, as far as may be, as the rent register of the Commissioners.
- (2) A copy of such book and of all entries therein, as modified from time to time, shall be supplied to the Commissioners, and shall be open to inspection between the hours of II A. M. and 5 P. M., at the head office of the Commissioners.
- (3) A special notice, including an extract from the assessment-book showing the valuation of each building or structure, and stating the time within which an objection shall be lodged, shall, on the completion of the valuation under sections 66A to 66F (both inclusive), be given by the Corporation to the owner of such building or structure.
- (4) The assessment calculated on the said valuation shall, subject to such alterations as aforesaid, be deemed to be the amount payable during the whole period for which the valuation is in force, and this period shall be calculated from the commencement of the quarter next succeeding that in which any alterations as aforesaid shall have been made, and, until such date, the old valuation shall continue in force, notwithstanding that the period for which it was made may have expired.

^{*} Inserted by s. 3, Ben. Act VI. of 1895.

18**90.** Act 3, 66L.* (1) The Corporation of Calcutta may, after giving

Amendment of assess- notice to the Commissioners and the owner
ment-book. of such building or structure in the manner
provided in section 66D, at any time amend the assessment-book,
by inserting therein,—

- (a) the name of any person whose name ought to be so inserted; or
- (b) the description of any building or structure hereinbefore mentioned liable to any such rate; or
- (c) the valuation when such building or structure has not already been valued.
- (2) The Corporation of Calcutta may without notice strike out the name of any person or the description of any building or structure not liable to the rate, or may reduce the amount of the valuation.
- (3) All such changes shall be notified to the Commissioners, and to the owner of the building or structure in the manner provided in section 65K, and the provisions of sections 66G, 66H, 66I, and 66J, shall, so far as may be practicable, apply.
- 66M.* (1) The Commissioners shall, during the first month

 Payment of rate by the Of each succeeding quarter, pay to the CorCommissioners to Corporation of Calcutta the consolidated rate so assessed for the previous quarter for such portion of the previous quarter as the Commissioners' land was occupied by each tenant, and the liability for rent incurred:

Provided that, unless notice of the termination of a tenancy during a quarter has been given by the Commissioners to the Corporation of Calcutta within one month of such termination, the Commissioners shall be liable for the whole consolidated rate assessed in respect of such quarter.

- (2) Before paying the consolidated rate assessed to the Corporation of Calcutta, the Commissioners shall deduct and retain a sum equal to one-eighth of such rate.
- (3) For the recovery of any such sum, the Corporation of Calcutta shall have all such and the same remedies, powers, rights, and authorities as they possess under the Calcutta Municipal Consolidation Act, 1888.†
- Rates recoverable from of any such building or structure the whole owner of building or structure and tenants of land. stated, by the Corporation of Calcutta, in respect of any such building or structure.
- (2) They may further recover from the tenants of the land assessed under sections 59 to 65 (both inclusive), an amount not

[•] Inserted by s. 3, Ben. Act VI. of 1895. † Superseded by Ben. Act III. of 1899.

exceeding one half of the whole of the consolidated rate so assessed by the Corporation of Calcutta in respect of such portions of the land as shall have been leased to such tenants.

1890. Act 3.

- (3) All sums so due shall be recovered and collected by the Commissioners, together with the rent payable to them by such tenants or owners in respect of such land or any such building or structure.
- (4) For the purpose of recovering such sums, the Commissioners shall have the same remedies, powers, rights, and authorities as if such rates were rent recoverable by them.
- 67. (1) The Corporation of Calcutta, on being satisfied that any road or thoroughfare vested in the Power of Calcutta Cor-Commissioners is not less than forty feet in poration to declare road or vested in width, and has been duly levelled, paved, thoroughfare Commissioners a public metalled, flagged, channelled, and sewered, street. shall at the request of the Commissioners, declare such road or thoroughfare to be a public street as defined by the Calcutta Municipal Consolidation Act, 1888;* and thereupon the same shall become a public street, and be, from time to time, lighted, cleansed, watered, and repaired by the Corporation of Calcutta.
- (2) It shall not be competent to the Corporation of Calcutta

 Corporation not to discontinue or stop up road or thoroughfare without the previous consent of the Commissioners; and the land occupied by any road or thoroughfare so discontinued or stopped shall vest in the Commissioners; and not in the Corporation of Calcutta.
- 68. The Commissioners may, without parting with the control Calcutta Corporation of any road or thoroughfare which is open may be required to light, to the public, or of the road of any dock, cleanse, and water roads. wharf, or jetty, call upon the Corporation of Calcutta to light, cleanse, and, if necessary, water such road; and thenceforward the Corporation of Calcutta shall light, cleanse, and, if necessary, water such road:

Provided that such road shall remain vested in the Commissioners, and shall not be stopped or discontinued, or temporarily closed, except by the Commissioners, or with their consent.

Part V.-Of the Estimates of Income, Expenditure, and Audit.

69. (1) The Vice-Chairman shall, at a special meeting to be
Estimate of income and held in the month of February in each year, expenditure to be liid lay before the Commissioners an estimate of the income and of the expenditure of the special meeting.

Commissioners for the year commencing

1890.

on the first day of April then next ensuing, in such detail and form as the Local Government shall, from time to time, direct.

- (2) Such estimate shall be completed and printed, and a copy
 Estimate when to be so thereof sent by post or otherwise to each
 laid. Commissioner, at least ten clear days prior
 to the meeting before which the estimate is to be laid.
- 70. The Commissioners in meeting shall consider the esti-Commissioners in meeting to consider and sanction the same either unaltered, or subject to such alterations as they shall think fit.
- 71. (1) The estimate, as sanctioned by the Commissioners, Power of Local Govern. shall, before the beginning of the year tor ment to disallow estimate, and return it for amend to the Local Government, who may, if it think fit at any time within three months after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment.

Estimate to be re-submitted to Lical Government after amendment.

- (2) The Commissioners shall, if the estimate is so returned, forthwith proceed to amend the same; and shall re-submit the estimate so amended to the Local Government.
- 72. (1) The Commissioners may, at any time during the Commissioners may cause year for which any such estimate has been supplementary estimate to be prepared. water to be prepared and submitted to them.
- Supplementary estimate shall be considered and sanctioned by the Commissioners in meeting, and submitted to the Local Government.

 Supplementary estimate and sanctioned by the Commissioners in meeting, and submitted to the Local Government in the same manner as if it were an original annual estimate.
- 73.* Save in cases of pressing e mergency, no sum chargeable against income and exceeding five thousand rupees shall be expended, by or on behalf of the Commissioners, unless it be covered by an estimate sanctioned under this part and finally approved by the Local Government and in force at the time.
- 74. If any sum exceeding five thousand rupees in amount is

 Excess expenditure to be so expended on a pressing emergency, the reported to Local Government.

 by the Vice-Chairman to the Local Government, together with an explanation of the way in which it is proposed by the Commissioner to cover such extra expenditure.

^{*} Section 73 has been substituted for the original by Ben. Act I, of 1912,

Commissioners not to maintain officer or servant without authority.

75. No officer or servant, as defined in section 30, may be maintained by the Commissioners, unless his salary has been provided in an estimate at the time in force.

1890. Act 3.

- 76. (r) The accounts of the receipts and expenditure under
 Audit and examination this Act shall once in every year be audited,
 examined, and laid before the Local Government.
- (2) Within fourteen days after the audit and examination shall

 Auditor's report to be delivered to Commissioners report upon the accounts audited and examined, and shall deliver such report to the

 Commissioners in meeting, who shall cause the same to be deposited in the office of the Commissioners, and to be published in the

 Calcutta Gazette, and in some one or more of the daily newspapers published in Calcutta.
- 77. The audit shall be made by such public department, or by Local Government to appoint auditors, as shall, from time to time, be appointed by the Local Government.
- 78. (r) For the purposes of any audit and examination of Auditors may require proaccounts under this Act, the auditors may, duction of books, &c., for audit of accounts.

 duction before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary; and may require any persons holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.
- (2) If any such person neglect or refuse so to do, or to produce any such books, deeds, contracts, accounts, vouchers, documents, or papers, or to make or sign such declaration, he shall be liable, for every neglect or refusal, to a penalty not exceeding one hundred rupees.
- Remuneration to auditors, not being a public department acting under this Act, shall, in respect of each audit, be paid by the Commissioners such remuneration as the Local Government shall, from time to time, determine.
- Accounts to be kept in office of Commissioners, and thereat be open during office hours to the inspection.

 Casion of inspection, for seven days before the audit and examination; and all such persons shall be at liberty to take copies of, or extracts from, the same without further payment.

1890.

Part VI.-Of Landing-places and Bathing-Ghats.

Act 3.

Commissioners in meeting ing to provide public landing-places.

81. The Commissioners in meeting shall provide a sufficient number of public landing-places from and upon which the public shall be permitted to embark and to land free of charge.

82. It shall be lawful for the Commissioners in meeting, if Powers with respect to bathing ghâts and landing places. they consider it necessary for the purposes of this Act, to occupy or remove any bathing-ghât or landing place within the port; and thereafter to prohibit the public from resorting to, or using, the same:

Provided that the Commissioners shall reserve, set out, make and provide for the use of the public, such sufficient bathing-ghâts within the port as the Local Government may direct.

Part VII.—Of the Erection of Wharves, Quays, Stages, Jetties, Piers, or Moorings.

83. It shall not be lawful for any person or persons save the Wharves, &c., not to be erected by private person without assent of Local Government.

Commissioners, to make, erect, or fix below highwater mark within the port any wharf, quay, stage, jetty, pier, erection, or mooring unless the assent of the Local Government shall have been first obtained.

. 84. Any matter or thing which may be so made, erected, or Penalty for unlawfully fixed, may be removed by the Commiserecting wharves. &c. sioners; and the person who shall have so made, erected, or fixed any such matter or thing shall be liable on conviction to a fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which such matter or thing shall have been permitted to remain so made, erected, or fixed after notice to remove the same shall have been given to him; and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter or thing:

Provided that this section shall not apply to moorings laid down or to be laid down by the Conservator of the Port.

85. In case any wharf, quay, stage, jetty, pier, erection, or Power to remove wharf, mooring may have been, or shall hereafter &c., if erected without limits be, made, erected, or fixed below highwater mark without the limits for the time being, of the port, and thereafter the limits of the port shall be extended so as to include the place on which such wharf, quay, stage, jetty, pier, erection, or mooring shall have been made, erected or fixed, it shall be lawful for the Commissioners, with the sanction of the Local Government in writing, to remove, fill up, or destroy such wharf, quay, stage, jetty, pier, erection, or mooring:

Provided that any person who may have lawfully made erected, or fixed such wharf, quay, stage, jetty, pier, erection, or mooring, or who may have acquired a prescriptive right thereto by possession of sixty years or upwards, his representatives or assigns, shall be entitled to institute a civil suit for the award of compensation to him for the injury caused by the removal, filling-up, or destruction hereinbefore mentioned.

1890. Act 3.

- 86. Whenever any wharves, quays, stages, jetties, piers, erecCommissioners to protions, or moorings have, under the last
 vide wharves, &c., for use preceding section, been removed, filled up,
 of public. or destroyed, the Commissioners shall make
 or provide for the use of the public such sufficient and convenient
 wharves, quays, stages, jetties, piers, erections, or moorings, in
 the place of those that may be removed, filled up, or destroyed,
 as the Local Government may direct.
- 87. When the Local Government shall under the povisions Commissioners to pro. of any Act for the regulation of duties of vide wharves, &c., for use customs, appoint any wharf, quay, stage, of Customs Officers. jetty, or pier, erected or acquired under this Act for the use of sea-going vessels, to be a wharf for the landing of goods within the meaning of such enactment, the Commissioners shall set apart, maintain, and secure on such wharf, quay, stage, jetty, or pier, such portion thereof or place therein, or adjoining thereto, for the use of the Officers of Customs, as the Local Government shall in that behalf approve or appoint.
- 88. Notwithstanding that any wharf, quay, stage, jetty, or Tolls, &c., in respect of wharves, &c., set apart for provisions of the last preceding section, Customs Officers to be have been set apart for the use of the paid to Commissioners

 Officers of Customs, all tolls, dues, rates, rents, or charges payable in respect thereof, or for the use thereof or for the storage of goods thereupon, shall be paid and payable to the Commissioners, or to such person or persons as they may appoint to receive the same.
- 89. (1) In case any damage or mischief shall be done to any dock, wharf, quay, stage, jetty, pier, Magistrate to summon works constructed or acquired by the Commasters of vessels with respect to damage caused to missioners under the provisions of this Act, by any vessel, through the negligence of any person having the guidance or command thereof, or of any of the mariners or persons employed therein, it shall be lawful for any Magistrate having jurisdiction in the place where such damage or mischief is alleged to have been committed, on the application of the Commissioners, to issue a summons to the master of or agent for such vessel requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief:

Provided that, if, at the time of the damage or mischief, the vessel was under the orders of a duly-authorized officer belonging to the Pilot Service, or the Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section.

(2) If, at the time appointed in the summons, and whether the person summoned shall appear or not, Magistrate to issue warthe Magistrate finds that the rant of distress if damage to wharves, &c., caused by damage was done through such negligence negligence. as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, it shall be lawful for the Magistrate to issue his warrant of distress under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors, or stores of the vessel may be seized and sold to cover the expenses of, and attending the execution of, the distress and the pecuniary amount of damage as aforesaid; and such amount shall be paid to the Commissioners out of the proceeds of the distress.

Part VIII.—Of the Landing and Shipment of Goods.

90.* The Commissioners shall† provide and keep, and maintain sufficient servants and apparatus Commissioners to profor the expeditious and convenient landing vide for landing, &c, of goods from sea-going vesand shipment of goods from and upon all sea-going vessels brought to the docks, wharves, quays, stages, jetties, or piers erected by them; and shall by their servants or agents, land and ship all goods from and upon any such vessel so coming to such dock, wharf, quay, stage, jetty, or pier, unless where there is a legal excuse for refusing to land or ship such goods, or such vessed is, by reason of the breach or non-observance of any law or regulation, not entitled to have her goods shipped or discharged:

"Provided that, in the case of cargos of petroleum, it shall be lawful for the Commissioners, not only to land the petroleum from all sea-going vessels, but also, by their servants or agents, to put the petroleum out of the hold and overside such vessels:"

Provided "further" that the Commissioners shall not be bound to land, ship, or move any single article or package exceeding thirty tons of twenty hundred weights in weight, except at such special charge as may be agreed on in respect of such article or package.

91. (1) Whenever any goods shall be landed by the Com-Commissioners to grant missioners from any vessel, under the receipts for goods landed by powers by this Act conferred on them, them. they shall, if thereunto required, give to

^{*} In s. co, the italicized words in the first paragraph, and the first proviso and the word quoted in the last paragraph have been inserted by Ben. Act IV. of 1895, s. 5.
† Certain words have been omitted by Ben. Act V. of 1915.

the person in charge of such vessel a receipt in the form or to the effect prescribed in the "Second"* Schedule; and may, in any such receipt, include all goods landed from such vessel during one day.

1890. Act 3.

- (2) No person to whom such receipt shall have been so given,
 Liability for loss, &c., of nor the master nor owner of the vessel goods to cease when once from which the goods in respect of which such receipt shall be given may have been landed, shall be liable for any loss or damage to such goods which may occur after they shall have been so landed.
- **92.** When any dock, wharf, quay, stage, jetty, or pier erected under the provisions of this Act shall have Commissioners to declare been made and completed together with when docks, &c., are ready for landing goods from seasufficient warehouses, sheds, cranes, and going vessels. moorings for landing and shipment. or for landing, or for shipment, of goods from and upon sea-going vessels, it shall be lawful for the Commissioners, with the sanction of the Local Government by a notification published in three consecutive numbers of the Calcutta Gazette to declare that such dock, wharf, quay, stage, jetty, or pier is ready for receiving, landing, and shipment, or for landing, or for shipment, of goods from and upon sea-going vessels.
- Commissioners may order sea-going vessels to load when accommodation available.

 be lawful for the Commissioners to require the Conservator of the Port, or other persons exercising the rights, powers, and authorities of the Conservator of the Port, from time to time, when there shall be room at such dock, wharf, quay, stage, jetty, or pier for the purpose of being laden or unladen by the Commissioners, any sea-going vessel which shall not have commenced to take in goods.
- 94. If, after such order of the Conservator of the Port or Penalty for landing or other person aforesaid, the owner or master of any such [vessel]† shall either take in or discharge goods, save and except at such dock, wharf, quay, stage, jetty, or pier to which such vessel shall have been so ordered, the owner thereot, or, in case he shall not be in Calcutta, the master thereof, shall be liable to a penalty of one hundred rupees for each day that he shall land or ship, or attempt to land or ship, any goods, in contravention of such order.

^{*} The word "second" in s. 91 has been substituted for the word "third" by Ben. Act II. of 1907.

[†] The word "vessel" has been substituted for the word "vessels" by Act I. of 1903.

Power to direct goods not to be landed from seagoing vessels save at docks, &c., erected by Commissioners.

95. (1) When a sufficient number of docks, wharves, quays, stages, jetties, or piers shall have been erected under this Act for the landing and shipment of goods of all sea-going vessels resorting to the port, it shall be lawful for the Commissioners in meeting, with the

sanction of the Local Government, by an order published in three consecutive numbers of the Calcutta Gazette to direct that, without the express sanction of the Commissioners, no goods shall be landed or shipped from or upon any sea-going vessel within the port save at such docks, wharves, quays, stages, jetties, or piers,

- (2) And, by an order in like manner published, to alter, vary. or revoke any such order.
- 96. Whoever shall, after such order has been so published as aforesaid, land or ship, or attempt to land Penalty for landing or or ship, any goods in contravention of such shipping goods after publication of order order, shall be liable to a fine not exceeding two hundred rupees for every day that he shall so land or ship any goods in contravention of the said order:

Provided that, notwithstanding anything in this section or in sections 92, 93, and 94 contained, it shall be lawful for the Local Government, by notification in the Calcutta Gazette from time to time, if it shall so think fit, to declare that certain specified vessels. or classes of vessels shall be permitted to discharge or ship goods; or that certain specified goods, or classes of goods, shall be permitted to be landed or shipped elsewhere, and at such part of the Port of Calcutta, and for such time, and on such conditions, as it may think fit.

97. (1) When any dock, wharf, quay, stage, jetty, or pier for receiving, landing, or shipment of goods Commissioners to declare when docks, &c., are from vessels (not be ing sea-going vessels) ready for landing goods shall have been made and completed with from inland vessels. all proper appliances in that behalf, it shall be lawful for the Commissioners in meeting,* by an order published in three consecutive numbers of the Calcutta Gazette to declare that such dock, wharf, quay, stage, jetty, or pier is ready for receiving, landing, or shipment of goods from vessels (not being sea-going vessels); and in the same way [with the sanction of the Local Government] to order that, within certain prescribed limits to be therein specified in that behalf, it shall not be lawful, without the express sanction of the Commissioners, to land or ship any goods out of, or into, any vessel (not being a sea-going vessel) of any class specified in such order, except at such dock, wharf, quay. stage, jetty, or pier.

^{* *} Certain words have been omitted by Ben. Act V. of 1915. † The words within brackets have been substituted by Ben. Act V. of 1915.

(2) And, by an order in like manner published, to alter, vary, or revoke any such order.

1890. Act 3

98. Whenever any order made and published under sections Suit may be instituted 95 and 97 shall have the effect of rendering for award of compensation. it unlawful to land or ship any goods out of or into any vessel at any wharf, quay, stage, jetty, or pier lawfully made, erected, or fixed by any person for the convenience of private traffic, or to which a prescriptive right may have been acquired by possession of sixty years or upwards, such person, his representatives, or assigns, shall be entitled to institute civil suit for the award of compensation to him for the injury caused by the order hereinbefore mentioned:

. Provided that, in awarding such compensation, the Court shall not take into consideration any tolls, dues, rates, or charges which the aforesaid person claiming compensation shall be liable to pay for using the wharf, quay, stage, jetty, or pier provided by the Commissioners for public use:

Provided, also, that it shall be lawful for the Commissioners, in lieu of closing any wharf, quay, stage, jetty, or pier under either of the said sections, to allow the continued use thereof, on payment of such scale of tolls, dues, rates, and charges as may be agreed upon between the owners thereof and the Commissioners.

- Goods not to be landed tion 97 of this Act, it shall not be lawful for from inland vessels save any vessel of such class to land or ship any goods at any place within the limits so specified except at such dock, wharf, quay, stage, jetty, or pier; nor for any such vessel while within such limits, to anchor, fasten, or lie within fifty yards of the ordinary low-water mark without the consent of the Commissioners.
- (2) Any person guilty of any breach of the provisions of this Penalty for breach of section shall be liable to a fine not exceeding fifty rupees for every such breach.
- Power to remove vessels tion 97 of this Act, any such vessel shall, lying within 50 yards of low-water mark.

 or lie, it shall be lawful for the Commissioners to cause the same to be removed out of the said limits, and it shall be the duty of the Conservator of the Port to aid and assist the Commissioners in so removing such vessel.
- 101. The Commissioners may, by notice in writing, order the Commissioners may re master, owner, or agent of any vessel to remove such vessel from any dock, wharf, quay, stage, jetty, or pier belonging to the Commissioners.

Power to charge vessels for use of docks, &c., after service of notice for their removal.

102. Unless such vessel, shall be removed therefrom within thirty-six hours after service of such notice on the officer in charge of such vessel, or the master, owner, or agent thereof, it shall be lawful for the Commissioners to charge,

in respect of such vessel for the use by such vessel of such dock, wharf, quay, stage, jetty, or pier, such sum not exceeding five hundred rupees for each day of twenty-four hours, or portion of such day, after the expiry of such thirty-six hours, during which such vessel shall remain at such dock, wharf, quay, stare, jetty, or pier, as to the Commissioners shall seem fit.

Part IX.—Of Levying Tolls and Rates.

103. The Commissioners shall frame a scale of tolls, dues, rates, and charges for the landing and ship-Commissioners to frame ment of goods from and into sea-going vesscale of tolls, &c., for landing goods from sea-gosels at the docks, wharves, quays, stages, ing vessels. jetties, and piers belonging to the Commis-

sioners, and for the use thereof by such vessels, and for the storing and keeping of any goods stored in any premises belonging to them, and for the removal of goods and for the use of any moorings laid down or acquired by the Commissioners, and for the towage of vessels by the steam-vessels of the Commissioners in the Port.

Commissioner to frame scale of tolls, &c., for landing goods into inland vessels.

104. The Commissioners shall also frame a scale of tolls, dues rates, and charges for the landing and shipment of goods into and out of any vessels (not being a sea-going-vessel)

104A.† (1) The Commissioners shall also frame scales of tolls for the use of their docks, wharves, Commissioners to frame scales of tolls for use of quays, stages, jetties, and piers by vessels docks, &c., by vessels whether sea-going or not, leviable when the Commissioners permit goods to be landed or shipped by persons other than their own officers and servants,

- (2) The scales for sea-going vessels and vessels other than sea-going-vessels may be either the same or different as the Commissioners may think fit.
- 105.‡ The Commissioners shall also frame a scale of charges for any services to be performed by the Commissioners to frame Commissioners or their servants in respect scale of charges for services in respect of vessel of any vessel or goods, or for the use of or goods, &c. any works or appliances to be provided by the Commissioners.

^{*} In s. 104, certain words, repealed by Ben. Act 13. of 1895, s. 6 have here been omitted.

[†] S. 104A has been inserted by Ben Act IV. of 1805, s. 7. ' I S. 105 has been substituted for the original by Ben. Act VI. of 1895, s. 4.

Charges for carrying passengers and their personal effects on Commissioners' vessel.

105A.* The Commissioner shall also 1890. frame a scale of charges for the carrying of passengers and their personal effects on vessels belonging to or hired by the Commissioners.

Commissioners to frame scale of tolls in respect of veseels plying for hire within limits of port,

106.† The Commissioners shall also frame a scale of tolls rates, charges, and fees, annual or other, to be paid by the owners of vessels plying [whether for hire or not, and) whether regularly or occasionally within, or partly

within and partly without, the limits of the port, "in respect of such vessels and of persons, whether in charge of or on board, such vessels, and also in respect of the licensing, registration, and regulation of such vessels and persons:"

Provided that no such tolls, rates, charges and fees, shall be chargeable in respect of vessels which are liable to pay port-dues under the provisions of Schedule I. of the Indian Ports Act 188q.

- 107. (1) Such scales of tolls, dues, rates, and charges, shall be adopted by the Commissioners in meet-Scales of tolls, &c., to be published after approing, and shall be submitted to the Local val by Local Government. Government; and, after receiving its approval, shall be published by the Commissioners in the Calcutta Gazette and may, from time to time, subject to the like approval and publication, be in like manner altered.
- (2) It shall also be competent to the Local Government at any time to cancel any of the scales framed Power of Local Governunder sections 103 to 106 (both inclusive), ment to cancel scale of tolls &c. or to call upon the Commissioners to modify any portion of such scales; and thereupon the Commissioners in meeting shall modify such scales accordingly.

108.§ [The Commissioners may from time to time] | charge upon all or any portion or description of Power of Commissioners goods landed from or shipped into any seato charge additional tolls, &c., on all goods to provide going vessel lying or being within the limits for payment of debt of the port, whether such goods shall or shall not be so loaded or shipped at any dock, wharf, quay, stage,

1905.

^{*} S. 105A has been inserted by Ben. Act IV. of 1904.

[†] In s. 106, the italicized words (wherever they occur) and the words quoted have been inserted, and the word "any" after the w rds "owners of "in the same paragraph has been omitted, being repealed by s. 8 of Ben. Act IV. of 1895.

These words in square brackets in s. 100 were substituted for the words " for hire " by Ben. Act IV. of 1905.

In s. 108, the italicized words have been inserted; the figures, letter, and word quoted have been substituted for the word "to;" the words "(both inclusive)" after the figures " 107" have been omitted, being repealed, and the last paragraph (the proviso) quoted has been added thereto, by Ben Act IV. of 1895, s. 9.

The words within square brackets have been substituted by Ben. Act IV. of

1890. jetty, or pier belonging to the Commissioners, such general or differential tolls, dues, rates, and charges in addition to, or other than, those prescribed by any scale of tolls, dues, rates, and charges for the time being in force under the provisions sections 103, "104A, and" 107 [as the Commissioners may think fit and expedient]:*

Provided that the said goods may, for the purpose of this section, be classified by weight, measurement, number, and value, and the tolls, dues, rates, and charges leviable may be varied according as the goods are imported or exported goods.

- 109. Such additional, general, or differential† tolls, dues, Mode of levy and recovery rates, and charges shall be fixed and adopted of additional tolls, &c in accordance with a resolution passed by the Commissioners at a meeting, and shall be submitted to the Local Government; and if, the same shall be approved by it, shall be published in the Calcutta Gazette and shall forthwith come into operation, and remain in operation, until altered or revoked by the Commissioners in meeting, with the sanction of the Local Government; and shall be leviable and recoverable in like manner as any other tolls, dues, rates, and charges payable under this Act.
- 110. (1) Power of Local Government to charge tolls, &c., on neglect of Commissioners to do so] .- kep. by Calcutta Port Amendment Act 1907 (Ben. Act 11. of 1907).
- 111. (1) For the amount of all tolls, dues, rates, and charges duly leviable under this Act in respect of Recovery of tolls in arear. any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates, and charges are fully paid.
- (2) Tolls, dues, rates, and charges in respect of goods to be landed shall become payable immediately on the landing of the
- (3) Tolls, dues, rates, and charges in respect of goods to be removed from the premises of the Commissioners, or to be shipped for export, shall be payable before the goods are removed or shipped.
- (4) The lien for such tolls, dues, rates, and charges shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods where such lien exists, and has been preserved in the manner hereinafter provided, for primage, and for money payable to Her Majesty or the Secretary of State for India in Council, under any law for the time being in force:

^{*} The words within brackets have been substituted by Ben Act II. of 1907. t In s. 109 the italicized words have been inserted by Ber. Act IV. of 1895, 5, 10.

Provided that nothing in this Act shall affect any power or authority vested in the Chief Officer of Customs under any law for the time being in force.

1890. Act 3

Responsibility of Commissioners for the Responsibility of Commissioners for loss, destruction, or deterioration of animals or goods, whether landed for import, or received for export, or for carriage by railway,

during such time as the same remain in the possession or under the control of the Commissioners,

shall, subject to the other provisions of this Act, and, in the case of animals or goods received for carriage by railway, subject also to the provisions of the Indian Railways Act, 1890,† be that of a bailee under sections 151, 152, and 161 of the Indian Contract Act, 1872,‡ omitting the words, "in the absence of any special contract," in section 152 of the last-mentioned Act.

- (2) With the previous sanction of the Local Government, and under such circumstances and conditions as the Local Government may prescribe, the Commissioners may enter into an agreement relating to animals or goods landed for import or received for export or for carriage by railway, which may impose upon the Commissioners a greater responsibility than that imposed by sub-section (1).
- (3) Every such agreement must be in writing, and must be signed by, or on behalf of the Commissioners.
- 113. (1) The Commissioners shall, immediately upon the Commissioners to take landing [by them] § of any goods, take charge of goods landed by charge thereof, and store such as are liable to suffer from exposure in any shed or warehouse belonging to the Commissioners.
- Goods to remain at risk and expense of owner if than those stored in ware-houses licensed untermoved within three der section 16 of the Sea Customs Act, 1878, from the premises of the Commissioners within three clear working days from the time of landing, such goods shall remain on the premises at the sole risk and expense of the owner.

S. 112 has been substituted for the original by Ben. Act II. of 1898, s. 2.

[†] Act IX. of 1890. ‡ Act IX. of 1872.

The words within brackets in 113 (1) have been added by Ben. Act II. of 1894. In s. 113 (2), the italics have been inserted by Ben. Act IV. of 1895, s. 11.

In s. 113 (2), the word three has been substituted for the word two by Ben. Act II. of 1898, s. 3.

- 114. (1) Whenever the owner of any goods other than those Commissioners to give stored in warehouses licensed under section notice to consignee, &c., of 16 of the Sea Customs Act, 1878,* fails to cessation of liability; remove the same within the time specified in the last preceding section, the Commissioners shall give notice to the consignee or owner of such goods, if his address be known, by letter sent by post to such address or left thereat, that all liability which the Commissioners may have hitherto incurred in respect of such goods has ceased.
- (2) And shall also publish in one or more daily newspapers also to publish notice of notice of the expiry of such liability; and expiry of such liability. shall specify therein the numbers, marks, and descriptions of such goods, so far as the same may appear.
- 115. In case the said goods other than those stored in ware-Liability of consignee or houses licensed under section 16 of the Sea owner with respect to goods Customs Act, 1878,† shall be removed to stored in public warehouses. the public warehouses then the consignee or owner shall be liable to the charges for warehousing goods in such public warehouses; and the goods shall remain subject to all liens to which they would have been liable, if they had remained in the possession of the Commissioners, and to the power of sale hereinafter given.
- 116.‡ (1) If the master or owner of any vessel or his agent,
 Lien for freight preserved at or before the time of landing from such
 after landing of goods if vessel any goods at any dock, wharf, quay,
 notice of lien ne given. stage, jetty, or pier belonging to the Commissioners, shall give to the Commissioners notice in writing that
 such goods are to remain subject to a lien for freight or other
 charges payable to the shipowner to an amount to be mentioned
 in such notice, such goods shall continue liable to the same
 lien (if any) for such charges as they were subject to before the
 landing thereof.
- Goods to be retained in and sheds of the Commissioners, or in ware-warehouses and sheds until discharge of lien.

 Customs Act, 1878, or, with the consent of the Chief Officer of Customs, in the public warehouses, at the risk and expense of the owners of the goods, until the lien is discharged, as hereinafter mentioned.
- 117. Upon the production to the officer of the Commissioners

 Commissioners may perior in that behalf of a document purporting mit goods to be removed to be a receipt for the amount claimed as without regard to lien due, or a release of freight from the person-

^{*} In s. 114 (1), the words in italics have been inserted by Ben. Act IV. of 1895,

[†] In s. 115 the words in italics have been inserted by Ben. Act IV. of 1895, s. 13. † The above s. 116 has been substituted for the original as amended by s. 14 of Ben. Act IV. of 1895, by Ben. Act VI. of 1895, s. 5.

by whom or on whose behalf, such notice shall have been given, 1890. it shall be lawful for the Commissioners to permit such goods to be removed without regard to such lien:

Provided they shall have used reasonable care in respect to the authenticity of such document.

- 118. If the tolls, dues, rates, and charges payable to the Commissioners in respect of any goods under Power of Commissioners this Act are not paid, or if the lien of the to sell goods by public aucshipowner for freight, where such notice as aforesaid has been given, is not discharged, the Commissioners may, and, in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or, if the goods are of a perishable nature, at such earlier period, being not less than twenty-four hours after the landing of the goods as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.
- 119. (1) Before making such sale, ten days' notice of the same shall be given by publication thereof Notice to be given be fore sale of goods in the Calcutta Gasette, unless the goods are of so perishable a nature as, in the opinion of the officer of the Commissioners in that behalf, to render immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.
- (2) If the address of the owner of the goods has been stated on the manifest of the goods, or in any Notice to be given to of the documents which have come into the owner by letter if address be known. hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by the post; but the title of a bona fide purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.
- 120. (1) In every case of any such sale as aforesaid, the Application of proceeds moneys received from the sale shall be apof sale. plied as follows:—
 - (a) in payment of the expenses of the sale;
- (b) in payment according to their respective priorities of the liens and claims excepted in section III from the priority of the liens of the Commissioners for tolls, rates, and dues; and
- (c) in payment of the tolls, charges, and expenses of landing, removing, storing, or warehousing the same, and of all other charges due to the Commissioners under this Act in respect thereof.

(2) The surplus, if any, shall be paid to the importer, owner,
Surplus of sale-proceeds or consignee of the goods, or to his agent,
to whom to be paid. on his applying for the same:

Provided that such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made to the satisfaction of the Commissioners; and in case such application shall not be so made, nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

121. If the master of any vessel in respect of which any tolls, dues, rates, penalties, or charges shall be Power of Collector of Customs to distrain vessels payable under this Act, on any rules or for non-payment of tolls. orders made in pursuance thereof, shall refuse or neglect to pay the same or any part thereof on demand, it shall be lawful for the Commissioners to apply to the Collector of Customs of the Port of Calcutta, and such Collector shall distrain or arrest of his own authority such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners shall be paid; and in case any part of the said tolls, dues, rates, penalties, or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment shall have been so made, the Collector of Custom, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties, or charges and costs, including the costs of sale remaining unpaid; rendering the surplus (if any) to the master of such vessel on demand.

122. If the Commissioners shall give to the officer of Govern-Port-clearance not to be ment, whose duty it shall be to grant the granted until tolls, &c., port-clearance of any vessel, a notice statare paid. ing that an amount therein specified is due in respect of tolls, dues, rates, or charges, or penalties chargeable under this Act, or any bye-laws, rules, or orders made in pursuance thereof against such vessel, or the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

122A.* (1) All warehouses of the Port Commissioners shall Warehouses may be be deemed to be private warehouses, and capable of being licensed as such unand warrants may be grander section 16 of the Sea Customs Act, 1878; and all the provisions of that Act relating to licensed private warehouses shall be applicable to all such warehouses.

^{*} Ss. 122A, 122B, 122C, have been inserted by Ben. Act IV. of 1895, s. 15.

(2) The warrants delivered under section 6 of the Sea Customs Act, 1878, shall, in the case of the said warehouses, be signed by the Commissioners or some person duly authorized by them in that behalf.

1890. Act 8.

122B.* It shall be lawful for the Commissioners to give, in the manner provided by section Commissioners may give general security, by bond or otherwise, for security for duty on bonded goods. payment of the import-duty due on goods stored in bonded warehouses, or for the due exportation of such goods. When such security shall have been given by the Commissioners, no further security shall be required by the Chief Customs Authority from any other person to the same effect,

122C.* The Commissioners shall not be liable to compensate the owners of petroleum stored in any Commissioners may store goods in bonded ware. warehouse licensed under section 16 of the Sea Customs Act, 1878, for any loss by fire, however arising, or for any deterioration or damage, or diminution in quantity by leakage or otherwise, unless such deterioration, damage, or diminution has been caused by the negligence of the Commissioners or their servants.

CHAPTER V.

OF THE POWERS OF THE COMMISSIONERS AS CONSERVATORS OF THE PORT

- 123. (1) Any port-dues, fees, or other charges received by the Commissioners as Conservators of the Port-dues received by Port shall be deemed to be a portion of Commissioners as Conser vators of Port to form part their income, and shall be included in their of their income. annual estimates and accounts.
- (2) All the powers, authorities, and restrictions contained in this Act, in respect of the works by this Act Powers, &c., of Commisauthorized, shall apply to the works which sioners as Conservators. may be executed by the Commissioners as such Conservators, to the sanction thereof, the estimates therefor, and the expenditure thereunder.
- 124. Whenever the Local Government shall, under the provisions of the Indian Ports Act, 1889, issue Port-dues, &c., received an order which shall specify the amount of by Commissioners as Conservators to be included in charge to which the Commissioners shall be debt to Government. liable in respect of the Port-dues and fees to be received by them as Conservators of the Port, the same shall be deemed to be a sum of money advanced by the Secretary of State for India in Council, and to be due on the day on which such order shall take effect.

^{*} Ss. 122A, 122B, 122C, have been inserted by Ben. Act IV. of 1895, s 15. B. C .- 125.

CHAPTER VI.

OF WRECKS.

125. The Commissioners shall, if and when appointed, under Commissioners to exert the provisions of section 73 of the Indian Merchant Shipping Act, 1880, to be Reformed Wreck.

Ceivers of Wreck within the limits of their jurisdiction, exercise within such limits all the functions of a Receiver of Wreck under the said Act.

CHAPTER VII.

OF BYE-LAWS.

- 126.* (1) It shall be lawful for the Commissioners in meeting,
 Power to make, alter, or from time to time, to make such bye-laws
 ropeal bye-laws. consistent with this Act, and with the
 Indian Ports Act, 1889, as they may think necessary, for any of the
 following purposes (that is to say):—
 - (a) For regulating, declaring, and defining the docks, wharves, quays, stages, jetties, and piers, on and from which goods shall be landed from, and shipped in vessels within the port;
 - (b) for regulating the manner in which, and the conditions under which, the loading and discharging of all vessels within the port shall be carried out;
 - (c) for the safe and convenient use of such docks, wharves, quays, stages, jetties, and piers, and of landing-places, warehouses, ware-houses licensed under section 16 of the Sea Customs Act, 1878, sheds, and other works in and adjoining the same;
 - (d) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed for taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;
 - (e) for the mode of payment of tolls, dues, rates, and charges levied under this Act:
 - (f) for the removal of wrecks from the port or the river and keeping clean the port, the river, the bank of the river, and the works of the Commissioners, and for preventing filth and rubbish being thrown therein or thereon:

^{*} S. 126 has been substituted for the original one as amended by \$ 16 of Ben, Act IV, of 1895, by Ben. Act VI of 1895, s. 6.

- (g) for regulating the hours during which European seamen and apprentices shipped on the same footing as European seamen may be employed on boardships lying
 in the port, or on docks, wharves, quays, stages, jetties, and piers, in work necessitating exposure to the sun;
- (h) for the guidance of persons employed by them under this Act; and
- (i) for otherwise carrying out the purposes of this Act.
- (2) The Commissioners in meeting may, from time to time, repeal, alter, or add to, any bye-law made under this section.
- (3) No bye-law, repeal, or alteration of any bye-law shall have effect until the same is confirmed by the Local Government.
- (4) No bye-law, and no repeal or alteration of, or addition to, any bye-law shall be confirmed, until the same has been published in three cousecutive numbers of the Calcutta Gazette.
- 127. In making any bye-law under the last preceding section, Penalty for infringement the Commissioners in meeting may direct of bye-laws. that a breach of it shall be punishable with fine which may extend to five hundred rupees; and, when the breach is a continuing breach, with a further fine which may extend to two hundred rupees for every day after the first, during which the breach continues.
- 128. The Commissioners shall cause the said bye-laws and Bye-laws and tables of the tables of tolls, dues, rates, and charges tolls, &c., to be printed and hung up at docks, &c.

 Bengalee languages and characters, and to be hung up at the several docks, wharves, quays, and jetties, and other convenient places on the premises of the Commissioners.

CHAPTER VIII.

OF THE CONSTITUTION AND CONTROL OF PORT POLICE FORCE.

- 129. A Police Force shall be formally enrolled for the Port of Constitution of Port Calcutta to be styled the "Port Police Police Force." Force," and shall consist of a Special Superintendent to be called the "Superintendent of Port Police," and such number of officers and men as the Local Government shall from time to time direct.
- 130. The Port Police Force shall be under the direction and Port Police Force to be control of the Commissioner of Police for under control of Commissioner of Police.

 Calcutta, and shall form a portion of the stones of Police.

 Police Force of Calcutta, and shall be subject to the Provisions of the Calcutta Police Act, 1866.*

- 131. The Superintendent of Port Police shall, in all matters Superintendent of Port Connected with the prevention of crime, Police to act under control of Commissioner of Police. and the detection, apprehension, and detention of offenders in order to their being brought before a Magistrate, and the preservation of the public peace, act under the direct control of the Commissioner of Police for Calcutta.
- Superintendent of Port Police shall submit daily reports to the Commissioners of all offences (if any) committed contrary to the provisions of this Act, or of the Indian Ports Act, 1889, or of any port rules and bye-laws in force prescribed in accordance therewith; and of all accidents occurring on the river within the limits of the port.

CHAPTER IX

OF THE PORT POLICE BUDGET.

- 133. (1) The Commissioner of Police, on or before the first Commissioner of Police to submit budget or estimate of Port Police Force to Commissioners.

 day of January in each year, shall transmit to the Commissioners a budget or estimate or estimate of the expenses of the Port Police Force for the financial year commencing on the first day of April, then next ensuing.
- (2) The Police Budget shall show the various heads of expenditure of the Police Force
- 134. (r) The Chairman shall lay every such budget before the

 Budget when to be laid Commissioners at the first meeting of the
 before Commissioners. Commissioners held after such budget has been transferred.
- (2) The Commissioners shall thereupon forward such budget
 Budget to be submitted to the Local Government, with such reto Local Government. marks as to them may seem fit; and it shall
 be in the discretion of the Local Government to pass, or to reject,
 or to modify, all or any sams entered in the same.
- (3) The amount of the estimates passed, or such proportion

 Amount of estimates passed to officer appointed by Local Government, shall be paid to such officer as the Local Government may, from time to time, direct by the Commissioners.

CHAPTER X.

1890. Act 8

MISCELLANEOUS.

Indemnity to Commissioners shall not be answerable for any act Indemnity to Commissioners against default of Master of the port, or of any Deputy or officers, &c.

Assistant of the said officers, or of any person acting under the authority or directions of any such officer or assistants, heretofore or hereafter done within the limits of the port; nor for any damage or injury heretofore or hereafter sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other thing belonging to the Commissioners within the port which may be used by such vessel:

Provided that nothing in this section shall protect the said Commissioners from an action in respect of any act done by, or under the express order or sanction of, the said Commissioners.

- 136. If any person employed under this Act, not being a Penalty for accepting public servant within the meaning of sectilegal gratification tion 21 of the Indian Penal Code, shall accept or obtain, or agree to accept, or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show in the exercise of his official functions favour or disfavour to any person, or for rendering, or attempting to render, any service or disservice to any person with the Commissioners, or with any public servant, or with the Government as such, he shall be liable to the same punishment as is provided for in that behalf by the Indian Penal Code, in the case of public servants.
- 137. Any person who wilfully deposits, or permits his serPenalty for committing vants to deposit, any dust, dirt, dung, ashes, refuse, or filth of any kind, or any animal matter, or any broken glass, earthenware, or rubbish, in or upon any dock, wharf, quay, stage, jetty, or pier belonging to the Commissioners or in or upon any part of the river bank within the port, shall be liable to a fine not exceeding ten rupees for each offence.
- 138. (1) Every charge of an offence against any provision of Jurisdiction in case of this Act, or of any rule, order, or bye-law offences committed within made under the provisions of this Act, Calcutta. alleged to have been committed within Calcutta, may be instituted before any Magistrate having jurisdiction, who may summon the person charged to appear at a time and place to be mentioned in the summons; and, if such person do not appear, the Magistrate may, upon proof of service of summons, if no sufficient cause shall be shown for the non-appearance

Act 8.

1890. of the person charged, proceed to hear and determine the case in his absence.

- (2) If such person do appear, then the procedure laid down in the Code of Criminal Procedure, 1882,* from sections 242 to 248 (both inclusive), shall be followed.
- 139. Every charge of an offence against the provisions of this Act, or of any rule, order, or bye-law made lurisdiction in case of offences committed out of under the provisions of this Act, alleged to Calcutta. have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, according to the provisions of the Code of Criminal Procedura, 1882.*
- 140. It shall be the duty of all police officers, whether members of the Port Police Force or not, to Police-officers to give imgive immediate information to the Commediate information of certain offences missioners of any offence committed contrary to the provisions of this Act, or of the Indian Ports Act, 1880, or of any bye-laws or rules having the force of law prescribed in accordance therewith.
- 141. (1) Any such police-officer may arrest any person committing in his view any offence against Police officer may arrest person committing nuisany of the said provisions, if the name and ances, address of such person be unknown.
- (2) Such person may be detained at the station-house until his name and address shall be correctly ascertained.
- 142. No suit shall be brought against any person for anything done or purporting or professing to be Time allowed for institudone, in pursuance of this Act, after the tion of suits. expiration of three months from the day on which the cause of action in such suit shall have arisen.

^{*} Act X. of 1882. But see now Act V. of 1898 (the new Code of Criminal Procedure).

FIRST SCHEDULE.

(See Section 2.)

1890.

Act 3.

ENACTMENTS REPEALED.

Acts of the Lieutenant-Governor of Bengal in Council.

Number and ye	ar.	Subject.	Extent of repeal.
Act V. of 1870		To appoint Commissioners for making Improvements in the Port of Calcutta.	So much as bas not been repealed.
Act IV. of 1879	•••	To provide for the levy of fees upon cer- tain passenger-boats and steam ferries.	
Act IV. of 1880	•••		So much as has not been repealed.
Act 1. of 1881	•••	To amend the Calcutta Port Improvement Act Amendment Act, 1880	
Act II. of 1883	-40	To amend the Calcutta Port Improvement Act, 1870.	Ditto.
Act II. of 1885		To enable the Commissioners for the Port of Calcutta to construct docks.	1
Act III. of 1887	•••	To amend the Calcutta Improvement Act, 1870.	Ditto.

SECOND SCHEDULE.

(See Section 20.)

FORM OF DEBENTURE.

By the Commissioners of the Port of Calcutta.

Repealed by Calcutta Port (Amendment) Act, 1907, Ben. Act II.

of 1907) s. 10.

SECOND SCHEDULE.*

(See Section 91.)

FORM OF RECEIPT FOR GOODS.

By the Commissioners of the Port of Calcutta.

Landed during the day of from the by the Commissioners of the Port of Calcutta the noted in the margin (if there be any —"apparent injury, this is to be stated) contents and state of the contents unknown."

For the Commissioners of the

Port of Calcutta.

A. B.

CALCUTTA;

^{*} This schedule was originally numbered "Third Schedule" and has now been renumbered "Second-Schedule" by Ben. Act II of 1907.

HACKNEY-CARRIAGES AND PALANQUINS. 1000

ACT NO. II. OF 1891.

The Calcutta Hackney Carriage Act, 1891.

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- 19. (1) Plate to be delivered on expiry of registration
 - (2) Penalty for neglecting to deliver such plate.
- 20. (1) Penalty for fraudulently using c. unterfeit plate.
 - (2) Police may seize counterfeit plate.

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- 21. (1) Driver of hackney-carriages to have license. Proviso.
 - (a) Particulars of license.
 - (3) Duration of license.
 - (4) Fee for license.
- 22. Penalty for not having license or lending it out.
- 23 Penalty for suffering unlicensed person to act as driver. Proviso.
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- 25. (1) Driver to wear metal ticket.
 - (a) Driver to wear ticket exposed to view.
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26. Driver entitled to new ticket on loss or obliteration of former one.

Penalty for using obliterated ticket, or for failing to deliver lost ticket when recovered.

27. (1) License and ticket to be delivered on expiry.

(2) Penalty for neglecting to deliver

such license and ticket.

28. (1) Penalty for using or wearing counterfeit ticket.

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29. (1) Penalty for failing to produce license before Magistrate.

(2) Conviction of any charge to be endorsed on driver's license.

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31. (1) Fares to be paid for hackney-carriages
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(2) Back fare not to be demanded.

Contract for lower fares to be binding.

32. (1) Owner to keep list of fares inside carriage.

(a) Penalty for breach

33 (1) Distance driver bound to drive (2) Speed when hired by time.

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34. Quantity of luggage to be carried free of charge.

35. Penalty for refusing to let a carriage for hire.

36. Penalty on driver for certain offences.

37. Penalty on driver for refusing to attend at premises of owner.

38. (1) Owner may be summoned to appear before Magistrate, and to produce driver

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Magistrate to hear and determine

complaint on failure to appear.

39. (1) Procedure on refusal to pay fares.

(a) Penalty for fraudulent evasion.
40. (f) Penalty for destroying carriageplate, &c.

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42. Disputes how to be settled.

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(2) Fares for stage-carriages how to be determined.

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45. (1) Stands to be appointed.

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(2) Change of ownership or residence to be notified.

48. (1) Registered number to be painted on palanquin.
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50. (1) Fares to be paid for palanquins.
Proviso.

(2) Back fare not to be demanded. Contract for lower fares to be binding.

51. (1) Bearers of palanquins to have licenses.

(2) Provisions relating to hackneycarriages applicable to palanquins

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52. (7) Distance bearers bound to carry palanquins.

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- 55. (1) Prosecutions to be instituted be fore Magistrate.
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- 57. (1) Damage to property of Commissioners to be paid for.
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- (3) Police-officer to enter particulars in book, and grant receipt.
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- 60. Fees and fines how to be dealt with.
- 61. (1) Appointment of officers when Act extended beyond Calcutta.
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FIRST SCHEDULE.

RATES AND FARES TO BE PAID FOR HACKNEY CARRIAGES.

SECOND SCHEDULE.

RATES AND FARES TO BE PAID FOR PALANQUINS.

ACT NO. II. OF 1891.

1891. Act 2.

The Calcutta Hackney-Carriage Act, 1891.

RECEIVED L.-G.'S ASSENT ON 9TH AUGUST, AND G.-G.'S, 11TH SEPTEMBER, 1891.

An Act to consolidate and amend the Law relating to Hackneycarriages and Palanquins in Calcutta.

WHEREAS it is expedient to consolidate and amend the law relating to hackney-carriages and palanquins in Calcutta; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title.

- 1. (1) This Act may be called the Calcutta Hackney-Carriage Act, 1891.*
- (3) It shall apply to Calcutta as hereinafter defined, and may Application and extension be extended from time to time to any other town or place in Bengal by a notification published in the Calcutta Gazette.

Repeal.

2. (1) Acts V. of 1866 and IV. of 1878 are hereby repealed.

- (2) This repeal shall not affect the validity of anything done or suffered, or of any right, title, obligation, or liability which may have accrued; and all appointments, extensions, and registrations made, licenses issued, notifications published, penalties incurred, and other things duly done under any such enactments, shall, so far as they are consistent with this Act, be deemed to have been respectively made, issued, published, incurred, or done hereunder.
- (3) All references made to any such enactment shall, as far as may be practicable, be deemed to be made to this Act.
- (4) All proceedings now pending which may have been commenced under any such enactment shall be deemed to be commenced under this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Calcutta" (subject to the inclusion or exclusion of any local area by the Local Government under section 4) means Calcutta as defined by the Calcutta Municipal Consolidation Act, 1888:†

^{*} S. 1, 3ub-s. (2), has been repealed by Act I. of 1903. † Ben. Act II. of 1888, superseded by Ben. Act III. of 1899.

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- (2) "Hackney-carriage" means any wheeled vehicle drawn by horses, and used for the conveyance of passengers, which is kept or offered or plies for hire by the hour or day, or according to distance; but shall not include any carriage used wholly upon any railway or tramway:
 - (3) "Horse" includes mule and pony:
- (4) "Stage-carriage" means any hackney-carriage, the passengers in which shall be charged or shall pay, separate and distinct fares, or shall be charged or pay at the rate of separate and distinct fares, for their respective places or seats therein or conveyance thereby:
 - (5) "The Commissioners" means the Corporation of Calcutta.
- 4. The Local Government may, by notification published in Alteration of limit of Cal- the Calcutta Gazette, exclude from Calcutta cutta. any local area, or include therein any local area, in the vicinity of the same, and defined in the notification:

Provided that, where the local area to be included is a Military

Proviso.

Cantonment or part of a Military Cantonment, a notification shall not be published under this section in respect of it without the previous sanction of the Governor-General in Council.

CHAPTER II.

REGISTRATION OF HACKNEY-CARRIAGES.

5. (1) Every hackney-carriage in Calcutta shall be annually Hackney-carriages to be registered by a Registering Officer who registered annually. shall be appointed for the purpose by the Commissioners, and who shall keep a register in which he shall enter every hackney-carriage under either the first, the second, or the third class.

Registering Officer to be under control of Chairman of Commissioners.

- (2) Every act, matter, or thing done by the Registering Officer, under or by virtue of this Act, shall be subject to the control of the Chairman of the Commissioners.
- (3) The appointment and removal of such Registering Officer

 Appointment and removal shall be subject to the provision of section 41 of the Calcutta Municipal Consolidation Act, 1888.*
- 6. The year of registration shall commence on the first day of Time and duration of registry. October of each year, and shall terminate on the thirtieth day of September following.

Ben. Act II of 1888, superseded by Ben. Act. III. of 1899.

7. (1) The owner of any carriage, who is desirous of registering ing it as a hackney-carriage, shall apply to the Registering Officer, stating the class in which he desires that the carriage may be registered, and shall submit the carriage for the inspection of the Registering Officer.

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- (a) The Registering Officer shall decide whether the carriage is, Application may be granted in the class applied for and shall register it in that class, or refuse to grant the application.
 - (3) The person in whose name any carriage is registered shall be deemed the owner of such carriage for the purposes of this Act.
- 8. (1) The Registering Officer shall, at the time of registration,
 License to be delivered to deliver a license duly-signed by him to the owner.

 owner of every hackney-carriage.

Duration of license.

(2) Such license shall be in force for the year of registration.

Particulars of register and license.

- 9. The following particulars shall be entered in the register, and shall be specified in the license to be given to the owner:
- (a) the class and the number assigned to the carriage in the register;
- (b) the name and residence of the owner, the description of the carriage, and the place where such carriage is intended to be kept;
- (c) the number and description of horses to be employed in drawing such carriage, and the place where such horses are intended to be kept;
- (d) the number of persons the carriage is licensed to carry.
- 10. A fee of four rupees shall be paid for each registration of

 Fee for registration.

 a carriage of the first class, a tee of three
 rupees for each registration of a carriage of
 the second class, and a fee of two rupees for each registration of a
 carriage of the third class.
- 11. The Registering Officer may suspend, for such period as
 Registration of carriage he thinks fit, or cancel, the registration of any carriage and the license granted to the driver under this Act, whenever it shall appear to him that such carriage or any horse or harness used with such carriage is unfit for public use, due regard being had to the class in which such carriage is registered.

- 1891, Act 2.
- 12. (1) Whenever any change shall take place in the owner-Notice to be given of ship of a hackney-carriage, if the person to change of ownership. whom such carriage shall have been transferred shall desire to use it as a hackney-carriage, he shall, before so using it, give to the Registering Officer notice in writing of such transfer, and shall include in such notice the particulars specified in clauses (b) and (c) of section 9.
- (2) If any such person shall, before giving such notice as

 Penalty for using car. aforesaid, use such carriage as a hackneyriage before giving notice. carriage, he shall be liable to a fine not
 exceeding five rupees for every day during which he shall so use
 the same.
- Notice to be given of ney-carriage shall change his residence or the place where such carriage and horses are kept, he shall, within one week from the date of such change, give to the Registering Officer a notice in writing, which shall include the particulars specified in clauses (b) and (c) of section 9.
- (2) Every such owner or driver who shall neglect to give such

 Penalty for neglect to notice shall be liable for every such offence give notice.

 to a fine not exceeding ten rupees.
- 14. The Registering Officer, on receiving the notices specified

 Change of ownership or residence to be entered in register.

 The Registering Officer, on receiving the notices specified in either of the two last preceding sections. Shall make the necessary alteration in the register and in the license; and a fee of eight annas shall be chargeable in respect thereof.
- 15. (1) Whoever keeps, or is the proprietor of, any hackney-Penalty for keeping uncarriage which has not been duly registered registered carriage. under this Act, shall be liable to a fine not exceeding one hundred rupees.
- (2) Any police-officer or any person duly authorized by the Seizure of such carriage Commissioners in that behalf, and wearing and horse.

 a distinctive badge to indicate his official capacity, may seize and remove to a police-station such carriage, together with the horse drawing the same.
- (3) If the hackney-carriage or horse so seized be not claimed,
 When such carriage or and if any fine imposed be not paid, together
 horse may be sold. with any costs or charges incurred, within
 ten days of such sizure or imposition of such fine respectively, such
 carriage and the horse seized therewith may be sold by auction, and
 the proceeds applied to the payment of the fine and all costs and
 charges incurred on account of the detention and sale.

When surplus to be credited to Hackney-carriage Fund. (4) The surplus, if any, if not claimed by the owner with a further period of twenty days, shall be credited to the Hackney-carriage Fund.

CHAPTER •III.

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PLATE ON HACKNEY-CARRIAGE.

Act 2.

- 16. Upon the registration of any hackney carriage, the RegisPlate to be affixed outside tering Officer shall provide a plate bearing carriage. the class and the number of such carriage in the register, and the number of persons it is licensed to carry, and shall cause such plate to be affixed on some conspicuous part of the outside of the carriage.
- 17. If any hackney-carriage shall be let, used, or ply for hire

 Penalty for using carriage without having a proper plate duly affixed without plate.

 as required by the last preceding section, the owner thereof shall be liable to a fine not exceeding fifty rupees.
- New plate may be had on loss or obliteration of former obliterated, and also whenever any plate shall have been lost or stolen, the owner of the hackney-carriage on which such plate was affixed shall deliver such plate (if he shall have the same in his possession) to the Registering Officer, and shall be entitled to have a new plate affixed upon payment of one rupee:

Provided that, if any plate which shall have been proved to Penalty for using obliterated plate, or for failing to deliver lost plate when recovered. the same shall forthwith be delivered to the Registering Officer; and every person in or into whose possession any such plate as last aforesaid shall be or come, and who shall refuse or neglect for three days to deliver the same to the said Registering Officer, and also every registered owner who shall use, or permit to be used, any plate after the writting thereon shall have become indistinct or obliterated, shall, for every such offence, be liable to a fine not exceeding ten rupees.

- 19. (1) On the expiration or other determination of the regis-Plate to be delivered on expiry of registration. tration, the owner of every hackney-carriage shall cause the plate of such hackney-carriage to be delivered to the Registering Officer.
- (2) Any person who, after the expiration of the period aforesaid,

 Penalty for neglecting to shall wilfully neglect for three days to
 deliver such plate. deliver the plate to the said officer, and
 every person who shall retain any plate affixed in respect of a registration which is no longer in force, shall, for every such offence,
 be liable to a fine not exceeding fifty rupees.
- 20. (1) Every person who shall, for the purpose of deception, Penalty for fraudulently use or have any plate resembling, or intenusing counterfeit plate. ded to resemble, any plate affixed under this Act shall, for every such offence, be liable to a fine not exceeding two hundred rupees.

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(a) It shall be lawful for any police-officer, or any person

Police may seize counterfeit plate.

the Registering Officer, to seize and take
away any plate used or had as aforesaid, wheresoever the same
may be found, and to deliver the same to the Registering Officer.

CHAPTER IV.

DRIVER'S LICENSE.

21. (1) It shall be lawful for the Registering Officer to grant a

Driver of hackney-carlicense to act as driver of any hackneyriages to have license.

carriage to any person who shall apply for
the same, and to whom it may seem proper to the said officer to
grant it:

Proviso.

Provided that no person shall be so licensed who is under sixteen years of age.

Particulars of license.

- (2) Every such license shall contain—
- (a) the number of the license;
- (b) the name, father's name, place of abode, and age of the person to whom such license in granted;
- (c) the description of carriage and horses such person is licensed to drive;
- (d) the date on which the license was granted, and shall bear the signature of the Registering Officer.

Duration of license

(3) The license shall continue in force for one year from the date thereof, unless the same shall be sooner revoked or suspended.

Fee for license.

- (4) For every such license there shall be paid a fee of two rupees.
- 22. If any person shall act as the driver of a hackney-carriage, Penalty for not having li. whithout having a license, in force for the time being, or, having a license, shall transfer or lend the same, or allow the same to be used by any other person, he shall be liable to a fine not exceeding twenty rupees, and, in default of payment of fine, to imprisonment for a period not exceeding fourteen days.
- Penalty for suffering un. person not duly licensed under this Act to licensed person to act as driver of any hackney-carriage of which he shall be the owner, shall be liable for every such offence to a fine not exceeding fifty rupees:

Provided that such owner and such unlicensed driver shall be subject to all the provisions of this Act, for any act done, or omitted to be done, by such

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driver during such employment, in like manner as if such driver had been duly licensed.

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24. The particulars of every license which shall be granted particulars of license to under the provisions of this Act shall be registered, and copy given on payment of fee. at the office of the Registering Officer; and every person applying shall at all reasonble times, be furnished with a certified copy of such particulars on payment of a fee of eight annas.

CHAPTER V.

DRIVER'S TICKET.

- 25. (1) The Registering Officer shall, at the time of granting

 Driver to wear metal a license to any driver of a hackney-carriage, ticket.

 deliver a metal ticket marked or engraved with a number corressponding with the number of license.
- Oriver to wear ticket exposed to view.

 to whom such ticket is delivered shall, at all times while acting as driver or while attending before any Magistrate, carry such ticket exposed to view.
- (3) In case any such driver shall omit to wear such ticket

 Penalty for omitting to exposed to view while acting as driver, or
 wear ticket. attending before a Magistrate, he shall be
 liable to a fine not exceeding ten rupees, and, in default of payment
 of fine, to imprisonment for a period not exceeding one month.
- Driver entitled to new of the license, become indistinct or obliteraticket on loss or obliteration of former one.

 One of the license, become indistinct or obliteration of former one.

 It is any such ticket shall have been granted shall deliver such ticket (if he shall have the same in his possession), and shall produce such license to the Registering Officer, and such person shall then be entitled to have a new ticket delivered to him upon payment of eight annas:

Provided that, if any ticket, which shall have been proved to Penalty for using obliterated ticket, or for failing to deliver lost ticket when recovered, the same shall forthwith be delivered to the Registering Officer; and every person in or into whose possession any such ticket as last aforesaid shall be or come who shall refuse or neglect for three days to deliver the same to the said Registering Officer, and also every person licensed under the authority of this Act who shall use or wear the ticket granted to him after the writing thereon shall have become indistinct or obliterated, shall, for every such offence, be liable to a fine not exceeding ten rupees, and, in default

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of payment of fine, to imprisonment for a period not exceeding seven days.

- 27. (1) Upon the expiration or other determination of any License and ticket to be license granted to a driver under this Act, delivered on expiry. such driver shall deliver such license and the ticket relating thereto to the Registering Officer.
- (2) Every driver who shall neglect for three days to deliver

 Penalty for neglecting such expired license and ticket to the said to deliver such license and officer, and also every person who shall use, ticket.

 wear, or detain any such expired license or ticket, or other than such as shall have been delivered to him under the provisions of this Act, and every person to whom any ticket shall have been delivered as aforesaid who shall lend such ticket to any other person, and every person who shall wear or use the ticket of any other person shall, for every such offence, be liable to a fine not exceeding twenty rupees, and, in default of payment of fine, to imprisonment for a period not exceeding one month
- 28. (1) Every person who shall, for the purpose of deception, Penalty for using or use or wear any ticket resembling, or intend-wearing counterfeit ticket ed to resemble, any ticket granted under the authority of this Act, shall, for every such offence, be liable to a fine not exceeding one hundred rupees, and, in default of payment of fine, to imprisonment for a period not exceeding one month.
- (2) It shall be lawful for any police-officer, or any person Police may seize coun. employed for the purposes of this Act by terfeit ticket the Registering Officer, to seize and take away any such expired or counterfeit ticket, wheresoever the same may be found, and to deliver the same to the Registering Officer.
- Penalty for failing to probe before any Magistrate to answer any charge duce license before Magistrate.

 before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his license, and produce the same if required so to do; and any driver who shall, on such requisition, fail to produce such license, shall, for every such offence, be liable to a fine not exceeding five rupees, and, in default of payment of fine, to imprisonment for a period not exceeding seven days.
- (2) It shall be lawful for any Magistrate, on conviction of any Conviction of any charge driver of any offence under this Act, to to be endorsed on driver's endorse on such license the nature of the amount of the penalty inflicted.
- 30. (1) It shall be lawful for any Magistrate, before whom any Revocation or suspension driver shall be convicted of any offence, of driver's license on conwiction. whether under this Act or under any other Act, to revoke the license of such driver, for

to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the driver, or any other person in whose possession such license and the ticket thereto belonging shall then be, to deliver up the same.

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- (2) Every driver or other person who, being so required, shall

 Penalty for refusal or refuse or neglect to deliver up such license and such ticket, shall be liable, for every such offence, to a fine not exceeding twenty rupees, and, in default of payment of fine, to imprisonment for a period not exceeding fourteen days.
- (3) The Magistrate shall forward every license and every Magistrate to send surrendered license to Registering Officer, together with a memotering officer.

 Calculate the Magistrate shall forward every license and every license
- (4) The Registering Officer shall enter the fact of such sen-Cancellation or re-deli- tence in the register referred to in section very. 9, and shall either suspend or cancel such license according to the sentence of the Magistrate; and, if it has been suspended, the Registering Officer shall, on application at the end of the time of suspension, re-deliver such license or ticket to the person to whom it was granted.

CHAPTER VI.

FARES, HIRING, AND PLYING FOR HIRE.

31. (1) The owner or driver of every hackney-carriage shall

Fares to be paid for hackney-carriages. be entitled to demand and take for the hire
of such carriage the fares specified in the

First Schedule to this Act:

Provided that, when the owner or driver of any hackneycarriage, to be paid a fare calculated according to the distance, shall be required by the
hirer thereof to stop such carriage for any time or times amounting
altogether to not less than fifteen minutes, it shall be lawful for the
owner or driver to demand and receive, from the hirer so requiring
him to stop, a further sum of one-fourth of the rate for the first hour
for every fifteen minutes that he shall have been so stopped.

(2) No owner or driver shall demand or receive, over and

Back fare not to be deabove the said fare, any sum for back fare,
manded. for the return of the carriage from the place
at which it was discharged:

Provided that any contract entered into to accept a fare Contract for lower fares lower than the fare so fixed shall be binto be binding.

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Act 2.

- 32. (1) The owner of every registered hackney-carriage shall Owner to keep list of put up, and at all times keep distinctly printfares inside carriage. ed, painted, or marked in the English, Urdu, and Bengalee languages, in such manner, and in such position, as shall be directed by the Registering Officer on the inside of such carriage, the amount of fare, according to distance and time which may legally be demanded and taken from the hirer of such carriage as a hackney-carriage.
 - (2) Every such owner who shall fail to comply with the provision of this section shall, for each offence, be liable, on conviction, to a fine not exceeding ten rupees
- 33. (1) The driver of every registered hackney-carriage shall (unless he has a reasonable excuse to drive. be allowed by the Magistrate before whom the matter shall be brough, in question) drive such carriage to any place to which he shall be required by the hirer thereof to drive the same, not exceeding six miles from the place where the same shall have been hired.
- (2) When any such carriage shall have been hired by time, Speed when hired by the driver thereof shall drive the same at a time.

 rate not less than four miles within one hour; and if the driver of such carriage shall be required to drive more than four miles within one hour, then in every such case, the driver thereof shall be entitled to demand, in addition to the fare regulated by time in the First Schedule to this Act, for every mile or any part thereof exceeding four miles, the fare regulated by distance as set forth in that schedule.
- (3) Any such driver failing, without reasonable excuse, to comply with the provisions of this section, shall be liable to a penalty not exceeding ten rupees, and, in default of payment of fine, to imprisonment for a period not exceeding seven days.
- 34. The driver of every registered hackney-carriage shall car-Quantity of luggage to ry in or upon such carriage a quantity of lugbe carried free of charge. gage not exceeding two maunds, together with one additional maund for every person below four carried in the carriage without any additional charge.
- 35. Any owner, person in charge of any registered hackneyPenalty for refusing to carriage, or driver, who shall, without
 let a carriage for hire. sufficient reason, refuse to let such carriage
 for hire, shall be liable, for every such offence, to a fine not exceeding fifty rupees, and to pay such further sum by way of compensation to the party complaining as to the Magistrate, who shall hear
 the case, may seem just; and such further sum shall, in default of
 immediate payment, be levied in the mode provided for the levying
 of fines under this Act.

Penalty on driver for certain offences.

86. Every edriver of a hackney-carriage who shall—

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- (a) be drunk during his employment;
- (b) make use of insulting or abusive language or gesture;
- (c) stand (elsewhere than at some stand or other place appointed for the purpose) or loiter for the purpose of being hired in or upon any public street, road, or place;
- (d) suffer his carriage to stand for hire across, any street, or alongside of any other carriage;
- (e) refuse to give way (when he reasonably and conveniently may do so) to any other carriage;
- (f) wilfully obstruct or hinder the driver of any other carriage in taking up or setting down any person into or from such other carriage;
- (g) wrongfully prevent, or endeavour to prevent, the driver of of any other carriage from being hired;
- (h) demand or take more than the proper fare to which he is legally entitled;
- (1) refuse to admit and carry in his carriage the number of persons painted or marked on the registered plate affixed to such carriage, or specified in the register;
 - (j) carry more than such number of passengers;
- (k) refuse to carry by his carriage a reasonable quantity of luggage;
- (1) before he has been discharged by the hirer (being hired by time), desert from the hiring;
- (m) ply for hire with any carriage or horse which shall be at the time unfit for public use;

shall be liable to a fine not exceeding ten rupees, and, in default of payment of fine, to imprisonment for a period not exceeding seven days.

- Penalty on driver for tered hackney carsiage who shall, without rolusing to attend at presulficient excuse, refuse or neglect to attend at the premises of such owner for the purpose of driving any such carriage, whereby such owner is prevented from letting out the same, shall, on complaint by such owner, be liable for each offence to a fine not exceeding ten rupees (which, or any part of which may, by order of the Magistrate, be paid to the owner as compensation), and, in default of payment of fine, to imprisonment for a period not exceeding seven days.
- Owner may be summoned the driver of a registered nackney-carriage to appear before Magistrate, and to produce driver. the provisions of this Act, such Magistrate

- Act 2. may forthwith summon the owner of the carriage personally to appear, and to produce the driver of such carriage to answer the complaint.
 - Penalty for neglecting so reasonable excuse, neglect or refuse perto appear, or to produce driver.

 Sonally to appear, or to produce the driver according to such summons, he shall be liable to a fine not exceeding fifty rupees, and so, from time to time, as often as he shall be so summoned, until such driver shall be produced by him:

Provided that, if such owner shall, without a reasonable excuse,

Magistrate to hear and neglect or refuse to appear, and produce
determine complaint on such driver on the second or any subsequent
failure to appear summons requiring him so to do, it shall be
lawful for the Magistrate to proceed to hear and determine the
complaint in the absence of the owner and driver, or either of them.

- 39. (1) If any person, who shall have hired a registered hackProcedure on refusal to ney-carriage, shall refuse to pay to the
 pay fares. owner or driver thereof, on demand, the fare
 payable under this Act, it shall be lawful for the Magistrate to order
 payment of such fare, and also of such compensation for loss of time
 as shall seem reasonable, and, in default of payment, such fare and
 compensation may be recovered in the same way as a fine.
- (a) If any person who shall have used any such carriage shall Penalty for fraudulent attempt to evade payment of the fare or evasion.

 any portion of the same which he may be deemed liable to pay, he shall be liable to a fine not exceeding fifty rupees, or to imprisonment for a period not exceeding one month, in addition to the payment of such fare and compensation as hereinbefore mentioned.
- 40. (1) Any person who shall maliciously or knowingly tear, Penalty for destroying destroy, delace, obliterate, or remove any carriage-plate, &c. carriage-plate, table of fares, or driver's ticket, which shall have been granted under the provisions of this Act, shall be liable, for every such offence, to a fine not exceeding twenty-rupees, and, in default of payment of fine, to imprisonment for a period not exceeding fourteen days.
- (2) Any portion of the fine may be awarded to the person to Award of fine to owner of carriage-plate, &c. whom such carriage-plate, table of fares, or driver's ticket, shall belong.
- 41. Any person using a registered hackney-carriage, who shall Penalty for wilful injury wilfully injure the same, shall be liable to a fine not exceeding twenty rupees, and, in default of payment of fine, to imprisonment for a period not exceeding fourteen days; and shall also pay to the owner of the carriage such compensation for the injury as the Magistrate may direct.

Act 2

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42. In case of any dispute between the hirer and driver of any registered hackney-carriage, the hirer may, if any Magistrate be then sitting, require the driver to the Court of such Magistrate, or, if no Magistrate be then sitting, to the Registering Officer; and, if any driver shall refuse to obey such requisition, it shall be lawful for the hirer to give such driver into the custody of the nearest police-officer; such police-officer shall thereupon take the driver and the hirer together with the carriage and horse to such Court or Registering Officer, and the then sitting Magistrate or Registering Officer shall, in either of the cases aforesaid, hear and determine the dispute in a summary way.

43. In the case of disputes as to the fare to be calculated according to the distance any table or book signed by Registering Officer conclusive.

clusive evidence of the distances therein stated.

Hackney carriage may ply for hire as stage-carriage.

- 44. (1) It shall be lawful for any registered hackney-carriage to ply for hire as a stage-carriage.
- (2) The owner or driver of a carriage so plying for hire or hired

 Fares for stage carriages as a stage-carriage shall not be subject to
 how to be determined. the provisions of section 31 of this Act, but
 shall be entitled to demand and take for the hire of such carriage
 such fares as shall be agreed upon between him and the several
 hirers respectively.
- (3) All the other provisions of this Act shall be applicable to

 Hackney-carriages plying as a stage-carriages subject to stage carriage, so far as the same shall be applicable in each particular instance.
- 45. (r) The Registering Officer shall, from time to time, appoint one or more stands in Calcutta for hackney-carriages registered under this Act, and may also assign for the use of such carriages, as public stands, any coach-houses, stables, or sheds, or other suitable places.
- (2) Every public stand so appointed or assigned shall have a Stands to have boards board affixed in a conspicuous place in front affixed in front of them. thereof, containing a notice in the English, Urdu, and Bengalee languages that the stand is a public stand under this Act.

1891. Act 2

CHAPTER VII.

PALANQUINS.

46. (1) Every palanquin plying for hire in Calcutta shall be Palanquins to be regisannually registered by the officer appointed tered annually. for registering hackney-carriages at the time and in the manner hereinbefore provided with respect to the registration of hackney-carriages.

Fee for registration.

(2) Upon each registration a fee of eight annas shall be paid:

Provided that the Registering Officer may refuse to register
Refusal to register palan. any palanquin, or may cancel the registration
thereof, whenever it may appear to him to
be unserviceable or unfit for public use.

Particulars of register. 47. (1) The following particulars shall be entered in the register, namely:—

- (a) the number of the palanquin;
- (b) the name and residence of the owner.
- (2) Every change of ownership or residence shall be notified.

 Change of ownership or to the Registering Officer, subject to the residence to be notified.

 same provisions and penalties in default as are provided in the case of the owners of hack ney-carriages.
- 48. (1) The owner of every registered palanquin shall cause
 Registered number to be the registered number thereof to be painted in the English and Bengalee figures on a conspicuous part thereof.
- (2) The owner of any palanquin plying for hire without being Penalty for neglecting to registered, or having the number affixed register palanquin. thereto as aforesaid, shall be liable to a fine not exceeding ten rupees.
 - (3) The person in whose name a palanquin is for the time being registered shall be deemed the owner thereof for the purposes of this Act.
- 49. The owner of every palanquin shall put up, and at all times

 Owner to keep list of fares keep distinctly printed, painted or marked in the English, Urdu, and Bengalee languages, in such manner and in such position as shall be directed by the Registering Officer, on the inside of such palanquin, the amount of fare according to distance and time which may be legally demanded and taken from the hirer of such palanquin.
- 50. (1) The owner or person in charge of every palanquin

 Fares to be paid for shall be entitled to demand and take for
 palanquins. the hire of such palanquin the fares specified in the Second Schedule to this Act:

Provided that, when the owner or person in charge of any palanquin to be paid a fare calculated according to the distance shall be required by the hirer thereof to stop such palanquin for fifteen minutes, or for any longer time, it shall be lawful for the owner or person in charge to demand and receive, from the hirer so requiring him to stop, a further sum of one-fourth of the rate for the first hour for every fifteen minutes that he shall have been so stopped.

(2) No owner or person in charge of a palanquin shall Back fare not to be dededed demand or receive, over and above the manded. said fare, any sum for back hire for the return of the palanquin from the place at which it was discharged:

Contract for lower fares to be binding.

Provided that any contract entered into to accept a fare lower than the fare so fixed shall be binding.

- 51. (1) It shall not be lawful for any person to act as the Bearers of palanquins to bearer of a registered palanquin, unless have licenses. such person shall have obtained a license from the Registering Officer in the manner hereinbefore prescribed for drivers of hackney-carriages.
- (2) All the provisions of this Act in any way relating to Provisions relating to the taking out, granting, renewing, prohackney-carriages appli- ducing, or using the licenses, or to the cable to palanquins issuing, granting, wearing, or using tickets granted to drivers of hackney carriages, shall be applicable in like manner to the bearers of palanquins.
 - (3) For every license to act as a palanquin-bearer granted under this Act, there shall be paid a fee of eight annas.
- 52. (1) The bearers of every palanquin registered under Distance bearers bound this Act shall (unless they have a reasonto carry palanquins. able excuse to be allowed by the Magistrate before whom the matter shall be brought in question) carry such palanquin to any place to which they shall be required by the hirer thereof to carry the same, not exceeding five miles from the place where the same shall have been hired.
- (a) If such palanquin shall have been hired by time, the

 Speed when hired by bearers thereof may be required to carry
 it at any rate not exceeding two-and-a-half
 miles within one hour.
- (3) Whenever the bearers of such palanquins shall be re-Fare by distance may be quired to carry it more than two-and-a-half demanded in addition to miles within one hour, they shall be entatled to demand, in addition to the fare regulated by time in the Second Schedule to this Act, for every

1891. mile or any part thereof exceeding two-and-a-half miles, the fare regulated by distance as set forth in the said schedule.

Provisions regarding owners and drivers of hackney carriages applicable to owners and bearers of palanquins.

All and every of the provisions of this Act as to offences committed by or against the owners and drivers of hackney-carriages, and the penalties in respect of the same and recovery thereof, and all the remedies by or against hirers, owners, or drivers of hackney-carriages, and drivers of hackney-carriages, average the provisions contained

ages, and all and several of the remedies given to hirers, owners, and drivers of hackney-carriages, except the provisions contained in section 38, shall be applicable, so far as the same may reasonably be applied to the owners and bearers of palanquins

CHAPTER VIII.

BYE-LAWS.

- 53. (1) The Commissioners in meeting may, from time to Commissioners in meet. time, make bye-laws, not inconsistent with ing may make bye-laws. the provisions of this Act, with regard to—
 - (a) the examination and qualification of drivers, as d the conditions under which they may be employed;
 - (b) the description of horses, harness, and other things to be used in hackney-carriages, the dimensions of such carriages, and the condition on which such carriages, and the horses, harness, and other things used therewith shall be kept;
 - (c) the inspection of the premises on which any such carriages, horses, harness, and other things are kept;
 - (d) the protection of weak, lame, and sickly horses;
 - (e) the publication of a table of distances, and generally for carrying out the purposes of this Act.
- (2) The Commissioners in meeting may, from time to time,

 Bye-laws may be repealed repeal, alter, or add to any bye-law made or altered.

 under this section.
- (3) No bye-law, and no repeal or alteration of, or addition

 Bye-laws when to take to, any bye-law, shall have effect until the same has been confirmed by the Local Government.
- (4) Every bye-law, and every repeal or alteration of, or Bye-laws to be published addition to, any bye-law, when confirmed, in Gazette.
- 54. Whoever infringes any bye-law made and confirmed Penalty for infringement shall be liable to a fine not exceeding of bye-laws.

CHAPTER IX.

PROSECUTIONS.

1891. Act 2.

- 55. (1) Every prosecution under this Act may be instituted Prosecutions to be instituted any Magistrate having jurisdiction, tuted before Magistrate. who may summon the persons charged to appear at a time and place to be mentioned in the summons; and if such person do not appear, the Magistrate may, upon proof of service of the summons, if no sufficient cause shall be shown for the non-appearance of the person charged, proceed to hear and determine the case in his absence.
- (2) If such person do appear, then the procedure laid down Procedure in case of prosecutions. in the Code of Criminal Procedure of 1898,* from section 242 to section 248, shall be followed.
 - (3) All fines imposed by a Magistrate under this Act shall be levied under the provisions of sections 386, 387, 388, and 389 of the said Code.
- 56. (1) No person shall be liable to any fine under this Act
 Liability to fine when infor any offence cognizable by a Magistrate,
 unless the complaint respecting such offence
 shall have been made within three months next after the commission of such offence.
- (2) The omission to register any hackney carriage or palanquin, or to take out a license, shall be deemed to be a continuing offence.
- 57. (1) If, through any act, neglect, or default, on account

 Damage to property of whereof any person shall have been fined commissioners to be paid under this Act any damage to the property of the Commissioners shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such fine.
- (a) The amount of such damage shall be determined by the Amount of damage to be Magistrate by whom such person has been determined by Magistrate. fined, and, in default of payment of the amount of such damage on demand, the same may be levied in the same manner as a fine.
- 68. In any case in which a Magistrate is satisfied that a Compensation for ground. complainant had no reasonable ground for less prosecution. instituting a prosecution, it shall be lawful for such Magistrate to direct the complainant to pay to the accused such compensation not exceeding fifty rupees as he thinks fit; and the sum so awarded shall be recoverable as if it were a fine.

1891.

CHAPTER X.

MISCELLANEOUS.

- Property left in carriage of every palanquin within the limits of or palanquin to be deposited in police-station. by any person shall, within twenty-four hours, carry such property, if not sooner claimed by the owner thereof, to the nearest police-station, and shall there deposit it with the Inspector or other officer on duty, and demand a receipt for it duly signed by the officer taking charge of the same.
- (2) Any such driver or bearer making default herein shall be liable to a fine not exceeding fifty rupees, and in default of payment of fine, to imprisonment for a period not exceeding one month.

Police officer to enter perticulars in book;

- (3) The said officer shall forthwith enter in a book to be kept for that purpose—
- (a) the description of such property;
- (b) the name and address of the driver or bearer who shal bring such property;
- (c) the day and hour on which it shall be brought;
- (d) the name and address of the owner of the hackneycarriage or palanquin in which the property shall have been left, and the registered number of such carriage or planquin,

and grant receipt.

and shall give the person a receipt fo the same.

(4) The property so entered shall be returned to the person Property to be returned who shall prove, to the satisfaction of the to owner.

Commissioner of Police, that the same belong ed to him; such person previously paying all expenses incurred together with such reasonable sum, to the driver or bearers who brought the same as the said Commissioner shall award:

Provided always that, if such property shall not be claimed by

When such property may
be sold, and how proceeds
may be applied.

and proved to belong to, some one withir
one year after the same shall have beer
deposited, the said Commissioner shall cause
such property to be sold or otherwise disposed of; and the proceeds
after deducting the expenses, together with a reasonable sum t
the driver or bearers, shall be applied in the same manner as fee.
and penalties received under this Act.

60. All fees and fines levied under this Act shall be credite

Fees and fines how to be in the first instance to a fund to be calle

the "Hackney-carriage Fund," which sha
be employed in carrying out the purposes of this Act, and in th

event of one or more municipalities being included in Calcutta by

virtue of a notification published under section 4, then such fund shall yearly be divided between the Calcutta Municipality and such other Municipality or Municipalities in such proportion as the Local Government may determine, each Municipality employing the sum so appropriated to it to carrying out the purposes of this Act.

- Appointment of officers town or place under section 1, the Local when Act extended beyond Calcutta.

 Government may appoint persons either by name or by official designation, to perform the duties imposed, and exercise the powers conferred, by this Act on the Commissioners and the Chairman of the Commissioners.
- (2) And in each town or place to which this Act may be exModifications in Act when tended, for the word "Calcutta" in sections
 extended beyond Calcutta.

 5, 45, and 46, shall be read the name of such town or place, and after the word "languages" in sections 32, subsection (1), 45 sub-section (2), and 49, shall be read "or such other languages as the Local Government may, by notification in the
 Calcutta Gasette prescribe," and for the words "forty-one of the
 Calcutta Municipal Consolidation Act, 1888," in section 5, subsection (3), shall be read the words "forty-six of the Bengal
 Municipal Act, 1884,"

18**9**1.

Act 2.

FIRST SCHEDULE.

(Referred to in section 31.)

RATES AND FARES TO BE PAID FOR HACKNEY-CARRIAGES.

	FARE 1	BY DISTANCE.	FARE BY TIME.					
Description of carriage.	For any distance within and not exceeding, one mile.	For any distance exceeding one mile.	For any time within, and not exceeding, one hour.	For every hour or part of an hour beyond one hour.	For half a day of five hours.	For a whole day consisting of nine hours.	For every hour or part of an hour after the ninth hour.	
First Class	8 annas	At the rate of 6 annas for every mile and for any part of a mile over and above a n y number of miles com-	1 rupee	8 annas		5 rupees	8 annas	
Second "	6 annas	At the rate of 4 annas for every mile and for any part of a mile over and above any number of miles completed.	12 annas	For the second hour, and for the third hour, or for any part of either. For every hour or part of an hour beyond the third hour.	2 rupees	rupees and annas 8	6 annas	
Third "	3 annas	At the rute of 2 annas for every mile and for any part of a mile over and above any number of miles completed.	6 "	4 3 annas		2 rup cc s	3 annas	

The above fares to be paid according to time, unless, at the commencement of the hiring, the hirer expresses his intention of paying according to distance. In the case of a second-class carriage, the hirer cannot avail himself of the half-day or whole-day rate, unless, at the time of hiring, he engages the carriage for the half-day or whole day, as the case may be.

SECOND SCHEDULE.

1891.

(Referred to in section 50.)

RATES AND FARES TO BE PAID FOR PALANQUINS.

FARE BY DISTANCE.		FARE BY TIME.				
For any distance within, and not exceeding, one mile.	For any distance ex- ceeding one mile.	For any time within, and not exceeding, one hour.	For every hour or part of an hour beyond one hour.	For half a day of five hours.	For a whole day consisting of nine hours.	
3 annas	At the rate of 3 annas for every mile, and for any part of a mile over and above any number of miles com- pleted.	6 annas	3 annas,	ı rupee	rupee and annas 8.	

The above fares to be paid according to distance or time, at the option of the hirer to be expressed at the commencement of the hiring; if not otherwise expressed, the fare to be paid according to time.

1893.

ACT NO. I. OF 1892.*

Act 1. Received L.-G's assent on 4th September, and G.-G.'s, 4th October, 1892.

An Act to further amend the Village Chaukidari Act, 1870.†

Preamble.

WHEREAS it is expedient to further amend the village Chaukidari Act, 1870;† It is enacted as follows:

1. This Act shall be read with, and taken as part of, Bengal Act VI. of 1870, as amended by Bengal Act I. of 1871 and Bengal Act I. of 1886; and it shall extend to all districts in which the said Act so amended is now or may be hereafter in force.

[Note.—The amendments made by the remaining sections of this Act have been embodied in the respective portions of Ben Act VI. of 1970, printed at p. 156, supra.]

ACT NO. 1. OF 1893.

The Licensed Warehouse and Fire-Brigade Act, 1893.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received His Honor's assent on 3rd April, and G.-(1.1s, 17th, June, 1893.)

An Act for the Licensing of Warehouses and the Maintenance of a Fire-brigade.

WHEREAS it is expedient to make provision for the licensing of warehouses and the maintenance of a Firebrigade; It is hereby enacted as follows:—

CHAPTER 1.

PRELIMINARY.

Title, application, and commencement.

1. (1) This Act may be called the Licensed Warehouse and Fire-brigade Act, 1893.

(2) It applies to Calcutta as defined by the Calcutta Municipal Consolidation Act, 1888,‡ and to such portions of the

^{*} Ben. Act I. of 1892 has been extended by notification under the Scheduled Districts Act (XIV. of 1874), to the District of Goalpara—See Notification No. 1891. dated Oct. 28, 1895, published in the Gasette of India, 1895, Pt. I., p. 918, and in the Assam Gazette, 1895 Pt. II, p. 1136.

[†] Ben. Act VI. of 1870 — See supra. ‡ Ben. Act II. of 1888, since superseded by Ben. Act III. of 1899 (the new Calcutta Municipal Act).

1893. Act 1.

suburbs thereof as are for the time being subject to the operation of Bengal Act II. of 1866*: also to the Municipality of Howrah, and to any other municipality in the neighbourhood of Calcutta or Howrah to which its provisions may be extended by an order of the Local Government to be published in the Calcutta Gasette.†

Repeal. 2. (1) Act IV. of 1883‡ is hereby repealed:

(2) But all rules, orders, declarations, financial arrangements, and appointments made under the said Act, and which are now in force, shall be deemed to have been made under this Act, so far as they are not inconsistent with the provisions thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

- (1) "basti land" means land which the owner lets out for the building of huts in such manner that the tenant of the land is the owner of the hut; and "hut" includes any structure erected on such land, whether roofed with tiles or otherwise, and whether constructed with bricks, earth, or other materials:
 - (2) "cotton" means loose raw cotton:
- (3) "jute" means raw jute, either loose or in drums, and loose jute cuttings and rejections:
- (4) "Magistrate" means and includes a Presidency Magistrate and Magistrate of the first class:
- (5) "person" includes an undivided Hindu family, a firm or company or association of individuals, whether incorporated or not:
- (6) "The Commissioner of Police" means the officer vested with the administration of police in the town of Calcutta under the Calcutta Police Act, 1866, and any Act amending the same:
- (7) "The Commissioners" means, in respect of Calcutta, the Corporation of Calcutta; and, in respect of Howrah and the other municipalities to which this Act applies or may hereafter be extended, the Municipal Commissioners of each of the municipalities concerned:
- (8) "warehouse" means any building or place used for the storing, or pressing, or keeping of jute, cotton, resin, varnish, pitch, tar, hay, straw, rags, tallow-wood, or other inflammable substance or thing for the time being subject to the operation of this Act.

^{*} Suburban Police Act.—See supra.

[†] Section 1, sub-section (3) which has been repealed by Act I. of 1903 has been omitted after this.

Licensed Warehouse and Fire Brigade Act, 1883.

⁶ Ben. Act IV. of 1866.—See supra.

1893.

CHAPTER II.

Act 1.

LICENSED WAREHOUSE.

- 4. * No building or place shall be used as a warehouse, unless

 Warehouse not to be the owner or occupier thereof shall have used till licensed. previously obtained a license from the Commissioners for such use under this Act.
- 5. The owner or occupier of any building or place, for which License previously licens- there was in existence on the 31st day of ed building or place. March, 1893, or on the date of the commencement of this Act,† a license granted under the Jute Warehouse and Fire Brigade Act of 1872‡ or 1879, or the Licensed Warehouse and Fire-brigade Act of 1883.§ shall, upon application in writing to the Chairman of the Commissioners, be entitled to obtain a license from the Commissioners therefor as a warehouse under this Act, subject to the payment to the Commissioners of such annual fee as is hereinafter provided.
- 6. Any person proposing to use any building or place as a License of new ware. warehouse within the area to which this Act house. applies, or may hereafter be extended, and who, at the commencement of this Act, does not hold such license under any of the said aforementioned previous Acts, shall, with his application for a license therefor, send to the Chairman of the Commissioners a plan in duplicate of such building or place prepared on a scale of 8 feet to the inch, and showing—
 - (a) the boundaries of such building or place;
 - (b) the position of the engines and furnaces used, or proposed to be used, in the warehouse;
 - (c) the space, if any, which has been reserved for the loading and unloading of carts thereat;

and thereupon it shall be within the discretion of the Chairman of the Commissioners to grant a license from the Commissioners therefor as a warehouse under this Act, subject to the payment to the Commissioners of such annual fee as is hereinafter provided, or to refuse a license for the same:

Provided that, when a license is refused, the reason for such refusal shall be recorded in writing.

7. Every application for a license under the last preceding sec-Period for disposal of application for license. tion shall be disposed of within thirty days from the date of its being received by the

Certain words at the beginning of the sentence have been omitted as they were repealed by Act I. of 1903.

[†] In s. 5 the italics have been substituted for is in existence at the commencement of this Act by the Licensed Warehouse and Fire Brigade Amendment Act (Ben. Act 1. of 1894), s. 2.

[‡] Ben Act II. of 1872.—Rep by Ben. Act V. of 1879. § Ben. Act. IV. of 1883 [repealed by s. 2 (1) of this Act].

1893. Act 1.

Chairman of the Commissioners, and, if not disposed of within that period, the applicant shall not be liable to any penalties under this Act for the use, after the expiration of the said period of thirty days, of the building or place as a warehouse in respect of which such application shall have been made, so long as such application is not finally refused by an order in writing under the hand of the Chairman of the Commissioners setting forth the grounds for such refusal.

- 8. Licenses under section 6 of this Act may be granted either

 Term and conditions of permanently, or for such term of years as the license.

 Chairman of the Commissioners shall think fit, and shall be subject to the following conditions, namely:—
 - (1) that the warehouse shall at all times be open to the inspection of an officer appointed by the Commissioner of Police. Such officer shall be a member of the fire-brigade, but shall not be a member of any police-force;
 - (2) that the annual fee imposed in respect thereof be paid in advance.*
- 9. (1) With the consent of the Chairman of the Commissioners Special Committee may examp Special Committee of the Commissioners, ercise powers of Chairman. not less than three or more than five, in number, whom the Commissioners in meeting shall in that behalf appoint, may exercise all or any of the powers and discretion under this Act vested in the Chairman of the Commissioners.
- (2) The proceedings of such Committee shall not be submitted to the Commissioners in meeting, or be subject to revision by them,
- 10. The annual fee payable in respect of any license shall not exceed ten per centum per annum on the annual value of the warehouse as it is assessed to the payment of the municipal taxes, less ten per centum on the outlay incurred in respect of the means and appliances therein, or appertaining thereto, for preventing or extinguishing fire:

Provided that the annual fee payable by any owner or occupier in respect of any license shall not exceed, seven hundred and fifty rupees, and that the estimated total annual amount to be derived from such fees shall not exceed fifty rupees per centum of the amount required to meet the cost of the fire-brigade, as shown in the budget mentioned in section 26 of this Act:

Provided also that the owner or occupier of adjacent warehouses, and the godowns, yards, or compounds auxiliary to such warehouses, shall not be bound to take out more than one license in respect of such warehouses, godowns, yards, and compounds.

[•] In s. 8 cl. (2) the italics have been substituted for as in that case made and provided by the Licensed Warehouse and Fire Brigade Amendment Act (Ben. Act I. of 1894), s. 3.

1898. Act 1.

- Fee payable from 28th June 1893 to 31st March 1894. of a license shall be payable, on the fifteenth day of March 1894, in respect of every such building or place as is described in section 5, by the owner or occupier thereof, for the period commencing on the twenty-eighth day of June 1893 (the date on which this Act came into force), and ending on the thirty-first day of March 1894, calculated on the basis of the annual fee which was payable in respect of warehouses under the provisions of section 5 of Bengal Act IV. of 1883.†
- 11. Whenever, and so often as, a change in the occupation of Change in occupation of any warehouse occurs, the person enterwarehouse to be notified. ing into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the Chairman of the Commissioners of such change or occupation, and shall thereupon pay to the Commissioners a fee of five rupees; and his name shall accordingly be substituted in the license in respect of such warehouse for the name of the last occupier.
- Chairman may apply to credible in formation that any of the conditions to which the license of any warehouse shall be subject has been broken by the holder thereof, he may apply in writing, setting forth the substance of such information, to a Magistrate for the issue of a summons upon the holder of the license to show cause why such license should not be cancelled or suspended, and may also apply to such Magistrate to suspend in the mea ntime such license, pending the hearing of the case.
- (2) The Magistrate shall not make an order suspending such license, unless he is satisfied that it is necessary to prevent or obviate immediate danger or injury of a serious kind.
- (3) The summons issued under this section shall be served upon the said holder of the license named therein in the manner provided in the Code of Criminal Procedure, 1898,‡ for the service of summons.
- 13. The Magistrate before whom the case instituted under the Magistrate may cancel or last preceding section is brought on for dissuspend license.

 posal may, if, after taking evidence, he be satisfied that there exists reasonable and proper grounds for cancelling or suspending the license, cancel such license, or may order the same, for such time as he may think fit, to be suspended, and may impose such conditions as to the reversal of such order of

S. 10A has been inserted by the Licensed Warehouse and Fire-brigade Amendment Act (Ben. Act I. of 1894), s. 4, which latter section has been repealed by Act I. of 1903. † The Licensed Warehouse and Fire Brigade Act, 1883 (since repealed by s. 2 of this Act).

[‡] See Act V. of 1898, s. 3 (1), according to which this reference has been substituted for the reference to the Code of 1882.

cancelment or suspension as may be consistent with the provisions 1898. of this Act for the grant of a license for a warehouse.

A ct 1.

CHAPTER III.

PENALTIES.

- 14. Any person who, without taking out a license, uses any building or place as a warehouse, shall be Penalty for not taking liable, on conviction before a Magistrate, to out license. a penalty not exceeding fifty rupees for each day during which he may so use or continue to use such warehouse.
- 15. Any person who uses any warehouse in respect of which a license has been refused, or after the license Penalty for using warein respect thereof shall have been cancelled, house after refusal, &c., of license. or during the time for which such license shall have been suspended, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, and to a further penalty not exceeding fifty rupees for every day during which any such warehouse may be so used as aforesaid.
- 16. Any holder of a license who breaks any of the conditions under which a license is held in respect of Penalty for breach of conany warehouse shall be liable, on conviction ditions of license. before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence.
- 17. If, and so often as, there be a change in the occupation of any warehouse, the person entering into Penalty for neglecting to occupation fail to give the notice, and to pay notify change in occupation of warehouse. the fee required by section 11 of this Act, such person shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for each day during which he may so use or continue to use such warehouse.
- 18. Any person who gives false information to the Chairman of the Commissioners with the object of in-Penalty for giving false information to Chairman ducing him to take action under section 12 respecting license. of this Act shall, on conviction before a Magistrate, be liable to a penalty not exceeding fifty rupees.
- 19. Any owner or occupier of a warehouse who shall prepare or dry, or cause to be prepared or dried, any Penalty for preparing, &c., inflammable substance or thing, for the time inflammable substance on roof of building being subject to the operation of this Act, on the top or roof of any building constituting or forming part of such warehouse, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence.

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- 20. Any person who shall use as a residence any portion of a Penalty for using as residence any warehouse used for the pressing or screwing of jute or cotton, if jute or cotton be then stored therein, shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for each day during which he may reside therein.
- 21. Any person who shall bring into a warehouse used for the Penalty for using matches or artificial light in warehouse.

 pressing or screwing of jute or cotton, if jute or cotton be then stored therein, or use therein, any matches or any artificial light, unless duly and thoroughly protected, shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for any one such offence.
- 22. Any person who shall smoke within a warehouse used for Penalty for smoking with the pressing or screwing of jute or cotton, if in warehouse jute or cotton be then stored therein, shall be liable, on conviction before a Magistrate, to a penalty not exceeding ter, rupees for any one such offence.

CHAPTER IV.

FUNDS.

- 23. The Commissioners shall pay to the Commissioner of Police

 Commissioners to meet half-yearly, in the months of May and Nocost of fire-brigade vember, such sums as are required to meet
 the cost of the fire-brigade as appear in the budget of the Commissioner of Police, and in such proportion, respectively, as the Local
 Government shall, from time to time, prescribe.
- 24. The Commissioners shall rateably impose the annual fees

 Cost of fire-brigade how payable for licenses under section 10 of this to be met.

 Act upon all warehouses, and shall appropriate towards the cost of the fire-brigade the amount derived from such annual fees and all penalties and fines imposed, and all rates levied, under this Act.

Rates may also be levied to provide for cost of fire-brigade.

- 25. (1) The Commissioners may, for the purpose of further providing the cost of the fire-brigade, levy the following rates:—
- (a) a rate not exceeding two-and-a-half per centum on the annual value, as it is assessed to the payment of municipal taxes, on any huilding or place used for the storage of any other inflammable substance or thing not specifically mentioned in clause 8 of section 3 of this-Act which the Local Government may, by a notification to be published in the Calcutta Gasette, declare to be liable for the payment of such rate:

Provided that the rate payable by any owner or occupier in respect of any building or place under this clause shall not exceed one hundred rupess;

1893. Act 1.

- (b) a rate not exceeding one-half per centum on the annual value, as it is assessed to the payment of municipal taxes, on all basti lands with the huts (if any) upon them:
- (c) a general rate not exceeding one-eighth per centum on the annual value of all houses and lands assessed under the provisions of the Bengal Municipal Act, 1884,* and the Calcutta Municipal Consolidation Act. 1888.†
- (2) Any building or place in respect of which a license has been granted under this Act as a warehouse, or which has been assessed under clause (a), and any basti land assessed under clause (b), shall be exempt from further assessment under clause (c).
- 26. (1) The Commissioner of Police shall prepare annually, in or before the month of February, a Commissioner of Police to prepare annually budget budget or estimate of the receipts and or estimate of receipts and expenditute of the fire-brigade for the year expenditure of fire-brigade. commencing on the 1st of April next ensuing, and shall distinguish in the receipts of such budget the proportionate sums to be contributed by the several municipalities to which this Act extends or shall hereafter be extended; and shall also show any balance of receipts remaining unexpended, after providing for any legitimate charge against the funds of the fire-brigade; and in like manner, if there be a deficit, shall show such deficit at the close of the previous year, and such credit or debit balances shall be taken into account by the Local Government in fixing the sum to be annually contributed by the municipalities concerned under this Act.
- (a) Such budget shall be laid before the Commissioners at a meeting, and shall be forwarded by them to the Local Government with-such remarks as they shall think fit to record; and it shall be within the discretion of the Local Government to pass, modify, or reject the estimates of all or any sums ontered in such budget.
- 27. Any sum standing at the credit of the Jute Warehouse Fund of the municipalities above named,‡ Sums to be approprited as an asset of Fire brigade shall be appropriated as an asset of the Fund. Fire-brigade Fund under this Act.
- 28. The provisions of the Bengal Municipal Act, 1884, § and the Calcutta Municipal Consolidation Act, Mode of recovery of rates levied under section 25. 1888, || relating to the recovery of rates

[•] Ben Act III. of 1884 - See supra.

[†] Ben. Act II. of 1888 (superseded by Ben. Act III. of 1899).

Certain words after this which was repealed by Act I. of 1903 have been omitted. Ben. Act III. of 1884—See supra.

Ben. Act II. of 1888 (superseded By Ben. Act III. of 1899, infra).

1893. Act 1. levied under those Acts respectively, shall, so far as they are consistent with this Act, apply to the recovery of rates levied under section 25 of this Act:

Provided that the rates levied under this Act, in Calcutta shall be included with the four rates mentioned in section 101 of the Calcutta Municipal Consolidation Act, 1888,* as one consolidated rate.

29. The Local Government may fix the proportionate liability for the cost of the fire-brigade to be borne Local Government to fix by the Commissioners of the municipalities proportionate liability for cost of fire-brigade to be to which this Act applies or may hereafter borne by Commissioners be extended, and may, from time to time, alter the proportions in which the Commissioners of any or all the municipalities for the time being, subject to the operation of this Act, are liable for the payment of the said sum.

CHAPTER V.

FIRE-BRIGADE.

Commissioner of Police to maintain fire-brigade for municipalities.

30. The Commissioner of Police shall maintain an efficient fire-brigade for the municipalities or such portions thereof that are, for the time being, subject to the operation of this Act.

31. (1) The Local Government may, from time to time, make, and, when made, alter or repeal, such Power of Local Governgeneral or special orders as it may think fit ment to make orders with respect to fire-brigade.

for appointing or removing any member or officer of the force:

for furnishing the fire-brigade with such fire-engines, fireescapes, horses, accoutrements, equipments, tools, and implements, as it may think proper;

for building or providing stations, or hiring places, for the keeping of the force, engines, horses, and appurtenances;

for giving gratuities to persons who have given notice of fires, and to those who have rendered effective service to the brigade on the occasion of fires:

for the training, discipline, good conduct, salaries, and pensions of the members of the force;

for the speedy attendance of such members with engines and all necessary implements on the occasion of any alarm;

for sending the force, engines, and appurtenances beyond the limits of the area to which this Act extends in order to extinguish fire in the neighbourhood of the said limits;

^{*} Ben. Act II. of 1888 (superseded by Ben. Act III. of 1899, infra).

for imposing and summarily realizing a fine, not exceeding 1893. one week's wages, from any member of the brigade who may infringe these orders; and,

Act 1

generally, for the maintenance of the fire-brigade in a due state of efficiency.

- (2) Such orders shall be published in the Calcutta Gazette, and shall take effect from the date of such publication.
- 32. (1) On the occasion of a fire, the Commissioner or Deputy Commissioner of Police, or the chief or Commissioner of Police, &c.. may exercise certain other officer in charge of the fire-brigade on powers on occasion of a fite. the spot, may-
- (a) remove, or may order any member of the brigade to remove, any persons who, by their presence, interfere with the due operations of the brigade;
 - (b) by himself, or by his men break into or through, or pull down, any permises for the purpose of puting an end to the fire, doing as little damage as possible;
 - (c) cause the mains and pines of any district to be shut off. so as to give greater pressure of water in the place where the fire has occurred;
 - (d) call on the officer in charge of the Port Commissioners fire engine to render such assitance as may be possible in the case of any fire occurring near the river-bank; and
 - (e) generally take such measures as may appear necessary for the preservation of life and property.
- (2) The Commissioner or Duputy Commissioner of Police, or the chief officer on the spot in charge of the brigade, may verbally nominate and depute one or more officers of the brigade to act at a distance; and such officer or officers, shall have, for the time being the like powers as the chief officer himself possesses under this section.
- 33. Police-officers of all grades shall be authorized to aid the Police-officers to aid fire- fire-brigade in the execution of its duties. brigade in execution of its They may close any street in or near which a fire is burning, and they may, of their own motion, or on the request of the chief or other officer of the firebrigade, remove any persons who interfere by their presence with the operations of the fire brigade.
- . 34. No officer of the police or of the fire-brigade shall be Non-liability of Pafice. held liable to damages on account of any officer, &c., to damages. act done by him in the bona fide belief that such act was required in the proper execution of his duties.

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- Chief officer of brigade which this Act applies, the chief officer of to enquire into origin of the fire-brigade shall ascertain the facts as fire, and to make report to to the origin and cause of such fire, and Magistrate. shall make a report thereon to the Magistrate having jurisdiction in the place in which such fire shall have occurred; and the said Magistrate, in any case where he may see fit, thall summon witnesses, and take evidence in order to the further ascertainment of such facts.
- (2) Copies of all reports, and of all evidence recorded under this section, shall be furnished on application to any Fire Assurance-Company or other person interested on payment of the fees payable for the copies of judicial proceedings.

CHAPTER VI.

FIREWORKS, &C.

- 36. (1) Whoever, within the area to which this Act applies,
 Penalty for letting off or to which it may hereafter be extended,
 rockets, &c., and selling fireworks without license.
 without a license from the Commissioner of Police, and whoever shall sell fire-works without a license from
 the Commissioner of Police, for which a yearly fee not exceeding ten rupees, shall be payable, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for such offence.
- (2) All such fees received by the Commissioner of Police shall be applied by him towards the maintenance of the fire-brigade.

Power of Commissioner of Police to withdraw or suspend license.

37. The Commissioner of Police may, at his discretion, withdraw or suspend any license granted by him under the last preceding section:

Provided that a license to sell fireworks shall not be withdrawn or suspended except after thirty days' notice.

38. The powers conferred on the Commissioner of Police in Magistrate of Howrah to respect to Calcutta and the suburbs by the exercise certain powers of two last preceding sections shall be exercised in the Municipality of Howrah by the Magistrate of the district,* or the officer in charge of the current duties of the Magistrate's office.

^{*} Now "District Magistrate."—See the new Code of Criminal Procedure (Act V. of 1898), s. 3 (2).

Penalty on householder for allowing rockets, &c., to be let off within premises without express permission.

aforesaid, as the case may be, the owner or occupier, or person under whose immediate control the said premises or compound is, shall be liable to a fine not exceeding fifty rupees, unless he can prove that the offence was committed without his knowledge.

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CHAPTER VII.

MISCELLANEOUS.

- Local Government may the Commissioners in meeting, declare that declare other building or place to be a warehouse. This Act, shall be a warehouse within the meaning of, and be subject to the operation of, this Act.
- 41. (1) The Commissioners of the several municipalities to Report respecting limits which this Act extends shall submit a report to the Local Government once a year at such time as the Local Government shall direct, giving a statement of account of of receipts and disbursements, and showing how the provisions of this Act have been carried out, and specifying the warehouses in respect of which licenses have been granted.
- (2) The Commissioner of Ponce shall make a similar report, showing the constitution, assets, and the working of the fire-brigade during the year, the receipts and expenditure in respect thereof, and the proceedings taken by him under sections 36 and 37 of this Act.
- (3) Such reports shall be forthwith published in the Calcutta Gasette.
- 42. Any person committing any offence in respect of which Police-officer may arrest a penalty is provided by section 36 of this offenders under section 36. Act may, if his name and address be unand convey them before known, be arrested by any officer of police, and forthwith conveyed before a Magistrate having jurisdiction in the place in which such offence has been committed, or shall be taken to the nearest police-station within the said jurisdiction in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into a recognizance, with or without sureties, for his appearance before a Magistrate.

1898. Act 1. 43. Whenever such person shall be taken to a police-station,
Time within which of the officer in charge of such station shall,
fenders should be conveyed as soon as possible, but in every case
before Magistrate. within twenty-four hours, cause him to be
conveyed before a Magistrate having jurisdiction in the matter.

- 44. Every license granted under Chapter II. of this Act shall,
 Form of license for warehouse.

 as far as possible, be in the form of the
 schedule to this Act annexed.
- Act not applicable to buildings where small quantities of jute, &c., are deposited.

 Act not applicable to buildings or places wherein small quantities of jute, cotton, resin, varnish, pitch, tar hay, straw. rags, tallow, wood, or other inflammable substance or thing for the time being, subject to the operation of this Act, are deposited.
- (2) The Local Government may, from time to time, declare, by notification in the Calcute a Gazette what quantities of jute, cotton, resin, varnish, pitch, tar, hay, straw, rags, tallow, wood, or other inflammable substance or thing as aforesaid, shall be deemed to be small quantities within the meaning of this section.
- 46. Sections 347 of the Calcutta Municipal Consolidation Act, Repeal of sections 347 of 1888,* and 201 of the Bengal Municipal Act, 1884,† are hereby repealed, in so far as they entitle the Commissioners to levy fees in respect of premises licensed as depôts for hay, straw, wood, rags, jute, or other dangerously inflammable material, which are licensed and used as warehouses under this Act.
- 46A.‡ Anything in the last preceding section notwithstandOperation of section 46 ing, the Commissioners are hereby authorized
 suspended. to very ters und r sections 347 of the
 Calcutta Municipal Consolidation Act, 1885, * and 261 of the Bengal
 Municipal Act, 1884, † as the case may be, up to the thirty-first day
 of March, 1894, and it is hereby declared that the repeal of the said
 sections, in so far as the power is withdrawn from the Commissioners of levying fees in respect of premises licensed as depôts
 for hay, straw, wood, rags, jute, or other dangerously inflammable
 material which are licensed and used as warehouses under this Act,
 shall not take effect until the first day of April, 1894.

^{*} Ben. Act II. of 1889 (superseded by the new Calcusta Municipal Act, Ben. Act III. of 1899).—See s. 2 of the latter Act infra

[†] Ben. Act III. of 1884.—See supra. ‡ S. 46A has been added by the Licensed Warehouse and Fire Brigade Amendment Act (Ben. Act I. of 1894), s. 5. But s. 5 has been repealed by Act I. of 1903.

SCHEDULE.

1894.

(Referred to in section 44.)

Act 1

License under Bengal Act of 18 .

No. of 18

The Corporation of Calcutta (or the Municipal Commissioners, as the case may be) hereby grant unto this license under Bengal Act of tostore (or press and keep) jute (or cotton, resin, or other inflammable substance or thing, as the case may be) in building or place, No. or Nos. Calcutta (or No. or Nos. Howrah, as the case may be), subject to the conditions noted on the back, and they, hereby acknowledge to have received the sum of Rs. being the license-fee due by the said from to 189, in respect of the aforesaid premises, at the rate of Rs.

Name of owner-

Name of occupier-

Secretary to the Corporation

(or to the Municipal Commissioners).

The day of

(On the back of the "license.")

CONDITIONS.

- (1) The warehouse or warehouses in respect of which this license is granted shall at all times be open to the inspection of an officer appointed by the Commissioner of Police as provided by section 8 of the Licensed Warehouse and Fire-brigade Act, 1893.
- (2) The annual fee imposed in respect to this hoense shall be payable "in advance."†

ACT NO. I. OF 1894.

The Licensed Warehouse and Fire Brigade (Amendment) Act, 1844.

RECEIVED L.-G.'S ASSENT ON 26TH FEBRUARY, AND G.-G.'s, 14TH MARCH, 1894.

An Act to amend Bengal Act 1. of 1893.\$

WHEREAS it is expedient to amend the Licensed Warehouse and Fire-Brigade Act, 1893;† It is hereby enacted as follows:—

7. This Act may be called the Licensed Warehouse and Fire Brigade Amendment Act, 1894. It shall be read with, and taken as part of, Bengal Act 1. of 1893.

[Norm.—The amendments made by the remaining sections (2 to 6) have been embodied in Ben. Act I. of 1893.]

^{*} The word "license" has been substituted for the word "schedule" by the Licensed Warehouse and Fire Brigade Amendment Act (Ben. Act 1 of 1894), s. 6.

[†] The words, "in advance" have been substituted for "(here state annual or other dates for payment of license-fee)," by the same Act and section.—Ben. Act I. of 1894, s. 6

^{. ‡} Ben. Act I. of 1893.—See supra.

Certain words after this, which was repealed by Act I. of 1903 have been omitted.

1894. Aots 2

ACT NO. II. OF 1894.

The Calcutta Port (Amendment) Act, 1894.*

RECEIVED L.-G.'S ASSENT ON 31ST MARCH 1894, AND G.-G.'S, ON THE SAME DATE.

Preamble.

WHEREAS it is expedient to amend the Calcutta Port Act, 1890; It is hereby enacted as follows:—

- 1. [Commencement of Act].—Repealed by Act I. of 1903.
- 2. In section 113, sub section (1), of the Calcutta Port Act, 1890, after the word "landing," the words, "by them," shall be inserted.

ACT NO. 111. OF 1894.

The Calcutta Tramways Act, 1894.

RECEIVED L.-G.'S ASSENT ON 19TH MARCH, AND G.-G.'S, 14TH APRIL, 1894.

An Act to give effect to an Agreement made between the Corporation of Calcutta and the Calcutta Tramways Company, Limited.

WHEREAS it is expedient to sanction and give effect to a memorandum of agreement made the second day of September 1893, between the Corporation of Calcutta of the one part and the Calcutta Tramways Company, Limited, of the other part, a copy whereof is set forth in the schedule to this Act; and whereas, without the authority of the Legislature, the said memorandum of agreement would be of no effect; It is hereby enacted as follows:—

Short title and commencement.

1. This Act may be called the Calcutta
Tramways Act, 1894.†

2. The memorandum of agreement, a copy whereof is set
The agreement declared forth in the schedule of this Act, is hereby
valid. authorized, sanctioned, and declared valid
and binding upon the Corporation of Calcutta and upon the Calcutta
Tramways Company, Limited, and its assignees.

SCHEDULE.

(Referred to in section 2)

Memorandum of Agreement made this second day of September 1893 between the Corporation of Calcutta incorporated under Act II. of 1888 of the Lieutenant-Governor of Bengal in Council hereinafter called "the Corporation" of the one part

^{*} This short title was given by the Repealing and Amending Act, 1903 (I. of 1903).
† Certain words after this, which was repealed by Act 1. of 1903 have been omitted.

and the Calcutta Tramways Company, Limited, a Company incorporated under the English Companies Acts having its Registered Office in England hereinafter called "the Company" of the other part Whereas the Corporation are the successors of the Corporation of the Town of Calcutta the parties of the first part to the annexed articles of agreement dated the and day of October 1879 and the Company is the assignee of the rights and habilities under the said articles of agreement of Dillwya Parish Alfred Parish and Robinson Souttar the parties thereto of the other part And Whereas under and by virtue of the 17th clause of the said articles of agreement the present rent payable by the Company to the Corporation is calculated at the rate of Rs. 3,250 per annum per mile of double line and Rs. 2,250 per annum per mile of single line And Whereas the said articles of agreement do not contain any express provision prohibiting the Company after the opening of any tramway from discontinuing the working of such Iramway And Whereas the parties hereto have deemed it expedient and have mutually agreed subject to the sanction and authorization of their said agreement by an Act of the Bengal Legislature that the said articles of agreement should be varied or modified to the extent and in the manner hereinafter appearing now these presents witness that subject to these presents being sanctioned and authorized by an Act of the Lieutenant-Governor of Bengal in Council to be hereafter passed for the purpose and in consideration of the said mutual agreement and of the convenants hereinafter contained and on the part of the Corporation and of the Company respectively to be observed and performed the Corporation do hereby covenant with the Company and its assigns and the Company for itself and its assigns doth hereby covenant with the Corporation in manner following, that is to say-

- 1. Subject as next hereinafter provided the rent payable by the Company to the Corporation from the 1st January 1894 to the 31st December 1900 being the end of the 21st year referred to in the said 17th clause of the said articles of agreement shall be calculated and paid at the present rate namely at the rate of Rs. 3,250 per annum per mile of double line and Rs. 2,250 per annum per mile of single line anything in the said articles of agreement to the contrary notwithstanding. Provided never heless that a remision of fifteen thousand rupees a year shall be granted for five years with effect from 1894 subject to the condition that the dividends declared by the Company do not exceed three and half per cent, per annum during that period.
- 2. The Company shall not during the period from 1st January 1804 to 31st December 1900 without the previous sanction of the Corporation discontinue the working of any of its tramways which now hereafter may be opened for traffic.

ACT NO. IV. OF 1894.*

The Bengal Municipal (Amendment) Act, 1894.+

RECEIVED L.-G.'S ASSENT ON 5TH MAY, AND G.-G.'S, 8TH AUGUST, 1894.

WHEREAS it is expedient to amend Bengal Act III. of 1884; It is hereby enacted as follows:—

Construction and commencement.

1. This Act shall be read with, and taken as part of, Bengal Act III. of 1884.1

[Nors.—The amendments made by the remaining sections (2 to 99) have been embodied in Ben. Act 111. of 1884, printed at p 662, supra.]

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Ben. Act IV. of 1894 has been extended, by notification under s. 3 (a) of the Scheduled Districts Att (XIV. of 1874), to the Towns of Silhat, Gauhati, and Dibrugarh.—See Notification No. 3546-J, dated July 17, 1895, published in the Gasette of India, 1895, pt II., p. 949, and in the Assam Gasette, 1895, Pt. II., p. 863.

[†] This short title was given by Act I. of 1903. † Certain words after this which was repealed by Act I. of 1903 have been omitted.

1895.

ACT NO. II OF 1895.

Acts 2 & 3.

The Calcutta and Suburban Police (Amendment) Act, 1895.*

RECEIVED L.-G.'S ASSENT ON 10TH, AND G.-G.'S, 17TH MAY 1895.

An Act to further amend the Suburban Police Act, 1866,† and the Calcutta Police Act, 1866.;

WHEREAS it is expedient to further amend Bengal Act II. of 1866 (an Act to provide for the better regu-Preamble. lation of the Police within the Suburbs of the Town of Calcutta), and the Calcutta Police Act, 1866;‡ It is enacted as follows :-

1. [Commencement].—Repealed by the Repealing and Amending act, 1903 (1. of 1903).

[Note-The amendments made by the remaining sections (2 and 5) have been embodied in Ben Acts, II. and IV. of 1860. printed respectively at pp. 49 and 80 supra and sections 3 and 4 have been repealed by Ben. Act III. of 1910.]

ACT NO. III. OF 1895.

The Land Records' Maintenance Act, 1895.

RECEIVED L.-G.'S ASSENT ON 19TH APRIL, AND G.-G.'S, 21ST MAY, 1895.

An Act to provide for the Maintenance of Records of Tenant-rights in Bengal, and for the Kecovery of the Cost of Cadastral Surveys and Settlement.

WHEREAS it is expedient to provide for the maintenance of records of tenant-rights and of settlement-Preamble. records in Bengal, and for an alternative method of recovering the cost of cadastral surveys and settlements; It is hereby enacted as follows:-

PART I.

Preliminary.

Short title.

1. (1) This Act may be called the Land Records' Maintenance Act, 1895.

(2) It shall come into force only in districts or parts of districts of which a field-survey and a record-Extent. of-rights have been made under Chapter X. of the Bengal Tenancy Act, 1885, sor under any other law for the

^{*} This short title was given by the Repealing and Amending Act, 1903 (I. of 1903).

[†] Ben. Act II. of 1866.—See supra. ‡ Ben. Act IV. of 1866.—See p. 80, supra.

Act VIII, of 1885.

time being in force, and to which the Local Government may, 1895. from time to time, extend it by an order published in the Calcutta Gazette:

and thereupon this Act shall commence and take effect in the districts or parts of districts named in such Commencement. order on the day which shall be in such order provided for the commencement thereof.

- 2. (1) In this Act all words and expressions defined in the Bengal Tenancy Act, 1885,* shall have the Interpretation-clause. meanings attributed to them, respectively, in that Act, and the word "addition" shall have the meaning attributed to it in the Indian Registration Act, 1877.†
- (2) By the term "record-of-rights" shall be understood the settlement-record of tenant-rights called the khatian, or such new editions of such record as may be prepared under rules made under this Act, or such other corresponding record of tenantrights as may be declared by the Board of Revenue to form the record-of-rights for any district or part of a district. A record-ofrights includes entries duly made in a Register of Mutations.

PART II.

Registration of Mutations.

- The Sub-Registrars appointed under the Indian Registra. tion Act, 1877,† shall be Registrars of Registrars of Mutations. Mutations under this Act.
- 4. The Registrar of Mutations shall keep such registers as shall, from time to time, be prescribed by Registers. the Local Government, including, for every village within the limits of the sub-district, a Register of Mutations, in which there shall be recorded changes affecting the record-of-rights of that village, and containing such particulars as the Board of Revenue may, from time, to time, with the sanction of the Local Government, prescribe.
- 5. (1) Whenever the Local Government shall issue a notification in the Calcutta Gazette to that effect, Landlords' statements. every landlord shall, within the period prescribed in the notification, file, in the office of the Registrar of Mutaions, within the sub-district in which his tenants' land is situated, a statement, in a form to be prescribed by the Local Government, showing truly, to the best of his knowledge and belief, the changes, if any, which have taken place in his tenants'

^{*•} Act VIII. of 1885.

[†] Act III. of 1877, but now see Act XVI. of 1908. ‡ Act III. of 1877, but now see Act XV. of 1908.

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rights, by reason of transfer or succession, since the record-of-rights was prepared, or since the last statement was filed.

- (2) The Collector of the district shall cause such notification to be published by affixing a copy thereof in some conspicuous place in the office of such Collector, in every Civil Court, in every police-station and in the office of every Sub-divisional Officer within the district, and in any other manner which the Local Government may from time to time direct.
- Notice of transfer or raiyat, who transfers his tenure or holding succession to be given to or any part thereof, and every person claimRegistrar of Mutations ing to be in possession of any tenure or holding as a tenure-holder, raiyat at fixed rates, or occupancyraiyat in consequence of a transfer, or of intestate or testamentary succession, shall, within four months from the date upon which he gave or took possession, as the case may be, give notice of the fact to the Registrar of Mutations within whose sub-district the whole or some portion of the land to which the notice relates is situate, at his office:

Provided that a notice under this section is receivable, although the prescribed period has elapsed:

Provided further that, when any person has duly given notice under this section, all other persons are released from the obligation of giving notice in respect of the same transfer or succession:

Provided further that, when an instrument effecting a transfer of tenant-right has been registered under the provisions of the Indian Registration Act, 1877,* all persons are released from the obligation of giving notice under this section in respect of the same transfer.

The contents of the 7. The notice shall contain—notice.

- (a) in the case of a transfer, the names of the transferor and the transferee, or, in the case of a succession, the name of the deceased and his successor,
- (b) a specification of the nature of the interest transferred or acquired,*
- (c) the survey number of the lands as entered in the recordof-rights, and
- (d) such further particulars as the Local Government may, from time to time, prescribe.
- 8. (1) The Registrar of Mutations shall, on receipt of a notice

 Duty of Registrar on receipt of notice from transferer or transferee.

 under section 6, whether given within the prescribed period or not, from a transferor or transferee, ascertain if both the transferor and the transferee, or in the case of the death of either party since the transfer, if the one party, and the representative of the

other party, admit the transfer, or, in the case of the death of both 1895. parties, if their respective representatives admit the transfer, and if both transferor or transferee or their respective representatives admit the transfer, he shall after satisfying himself as to the identity of the persons appearing before him, cause the following particulars to be endorsed on the notice (that is to say):-

- (a) the signature and addition of every person admitting the transfer; and if such transfer has been admitted by the representative or agent of any person, the signature and addition of such representative or agent;
- (b) any payment of money or delivery of goods made in the presence of the Registrar of Mutations in reference to the transfer, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such transfer,

and shall affix the date and his signature to these endorse-

and shall register the transfer in the Register of Mutations in such manner as the Local Governm at shall, from time to time, by rule prescribe.

(2) If necessary, the Registrar of Mutations may issue a summons for the attendance of either or both the transferor and transferee, or their respective representatives, either simultaneously, or at different times, at his office:

Provided that, in lieu of issuing a summons, he shall either himself go and examine, or issue a commission for the examination of, any person who is-

- (a) exempt by law from personal appearance in Court.
- (b) unable, by reason of bodily infirmity, without risk or serious inconvenience to attend at the office, or
- (c) in jail under civil or criminal process.
- 9. The Registrar of Mutations, on receipt of a notice under section 6, whether within the prescribed Duty of Registrar on reperiod or not, from a person claiming by ceipt of notice from successor. succession, shall, after satisfying himself as to the identity of such person, and causing the signature and addition of such person to be endorsed on the notice, by a notice affixed in a conspicuous place, and by beat of drum in the village in which the land claimed is situated call upon any person who desires to do so to appear before him at his office within one month from the date of the last-mentioned notice, and deny the succession and, if, within that period, no one appears and denies the succession. he shall endorse a statement of the fact on the notice, affixing the date and his signature to the endorsements, and shall register the succession in the Kegister of Mutations in such manner as the Local Government shall, from time to time, by rule prescribe.

1895. Act 8.

- 10. Notwithstanding anything contained in sections 8, 9, and

 Appearance by agent.

 12, any person may attend at the office of
 the Registrar of Mutations by agent duly
 authorized by power-of-attorney executed and authenticated in
 manner hereinafter mentioned.
 - 11. (1) For the purposes of the last preceding section, the powers-of-attorney here mentioned shall alone be recognized—
 - (a) if the principal, at the time of executing the power-ofattorney, resides in British India, a power-of-attorney executed before, and authenticated by, any Magistrate or the Registrar or Sub-Registrar appointed under section 6 of the Indian Registration Act, 1877,* within whose district or sub-district the principal resides:
 - (b) if the principal, at the time, aforesaid does not reside in British India, a power-of-attorney executed before, and authenticated by, a notary public, or any Court, Judge, Magistrate, British Consul, or Vice-Consul, or representative of Her Majesty, or of the Government of India:

Provided that the following persons shall not be required to attend at any office or Court for the purpose of executing any such power-of-attorney as is mentioned in clause (a) of this section:—

persons exempt by law from personal appearance in Court; persons who, by reason of bodily infirmity, are unable, without risk or serious inconvenience, so to attend; and persons who are in jail under civil or criminal process.

- (2) In every such case the officer, if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court. To obtain evidence as to the voluntary nature of the execution, the officer may go to the person purporting to be the principal, and examine him, or issue a commission for his examination. Any power-of-attorney mentioned in this section may be proved by the production of it without further proof, when it purports, on the face of it, to have been executed before, and authenticated by, the officer hereinbefore mentioned in that behalf.
- 12. The law for the time being in force as to summonses, Law as to summonses commissions and the compelling the attendand commissions.

 ance of persons summoned in suits before Civil Courts, shall, mutatis mutandis, apply to any summons or commission issued, and any person summoned, under this Act.

^{*} Act III. of 1877, but now see Act XVI. of 1908.

13. Whenever a Registrar of Mutations, after receipt of a 1895. notice under section 6, does not register thee Act 3. Reason for refusal to re-, gister to be recorded. transfer or succession in respect of which it is given, he shall make an entry of the fact, and state his reasons in such manner as the Local Government may, from time to time, prescribe.

- 14. If any of the persons purporting to have signed the notice, Procedure on denial of or any one mentioned therein as transferor transfer. or transferee, or, in the case of the death of either, if his representative, denies the transfer,
- or if any such person appears to be a minor, an idiot, or a lunatic, or

if any person, where the claim is by succession, appears before the. Registrar on issue of a notice under section 9, and denies the succession,

the Registrar of Mutations shall refuse to register the mutation.

- 15. If the name of a transferor, or of a deceased person through whom succession is claimed, inserted Procedure when transferor's name not in record-ofin a notice given under section 6, is not recorded in the record-of-rights as that of the person in possession of the land specified in the notice, the Registrar of Mutations shall, without registering the transfer or succession, as the case may be, by a notice affixed in a conspicuous place, and by beat of drum, in the village in which the hand claimed is situated, call upon any person who desires to do so to appear before him at his office within one month from the date of the lastmentioned notice, and deny that the alleged transferor, or deceased person through whom succession is claimed was, at the time of the alleged transfer, in possession of the land specified in the notice. And if no person within the prescribed period so appears and denies, the Registrar of Mutations shall, if the other provisions of the Act are complied with, record the transfer or succession, the subject of the notice, in the Register of Mutations.
- 16. (1) When a Registrar of Mutations has made an order Appeal against refusal to refusing to register a transfer or succession, an appeal shall lie, within thirty days from the date of the order, against such order to the Collector of the District to whom such Registrar of Mutations is subordinate; and the Collector may, after taking such evidence as he thinks necessary, reverse or alter such order; and if the Collector directs the transfer or succession to be registered, the Registrar of Mutations shall obey such order,

and such registration shall take effect as if the transfer or succession had been registered when the notice was first given under section 6.

(2) No appeal shall lie from any order of a Collector passed under this section.

- 1895.

 Act 3. Registrar to give receipt for notice and, if required copy of entries in Register of Mutations in pursuance of such notice.

 17. The Registrar of Mutations shall give to the person giving a notice under section 6 a receipt therefor, and shall, upon his application, grant to him, free of charge, a copy of the entries made in the Register of Mutations in pursuance of such notice.
 - 18. (1) On payment of the prescribed fees, the Register of Registrar to allow inspec Mutations shall be open to inspection by tion, and to give certified copies of entries in Register. And a copy of any entry therein shall be given to any person applying therefor.
 - (2) Copies given under this section shall be signed and sealed by the Registrar of the Mutations, and shall be admissible for the purpose of proving the contents of the original entry.

Fees to be fixed by the Local Government shall, from time to time, prepare tables of fees payable—

- (a) for the registration of mutations—
 - (1) within the prescribed period,
 - (ii) after the prescribed period;
- (b) for copies of entries in the Register of Mutations;
- (c) for inspecting the Register of Mutations;
- (d) for notices, processes, and commissions given or issued under this Act;
- (e) for such other matters as appear to the Local Government necessary to effect the purposes of this Act,

and may, from time to time, alter such tables.

- (2) Tables of fees so payable shall be published in the Calcutta Gazette, and a copy thereof, in English and the vernacular language of the district, shall be exposed to public view in the office of every Registrar of Mutations.
- (3) All fees for the registration of mutations shall be payable at the time when the notice is given under section 6.
- 20. The fees payable to the Collector under sections 15 and

 Fees under Tenancy Act.

 18 of the Bengal Tenancy Act, 1885,* may
 be paid to the Registrar of Mutations when
 notice is given under section 6, and such payment shall be held to
 be payment to the Collector, and the Registrar of Mutations shall
 forthwith transmit all fees so paid to the Collector, and such notice
 to the Registrar of Mutations shall be held to be a notice to the
 Collector under sections 15 and 18 of the Bengal Tenancy Act, 1885.*

1895.

21. Any non-occupancy-raivat or under-raivat, if he thinks fit, may give any notice which a tenure-holder, Act 3. Notice by non-occupancy raiyat at fixed rates, and occupancy-raiyat, or under-raiyals. is bound to give under section 6, and if he gives such notice, the provisions of this Act, as far as they are applicable, shall thereupon, apply.

22. A Sub-Registrar, registering an instrument effecting a transfer of tenant-right, or, under the provi-Registration of instrusions of sections 64 and 65 of the Indian Rements effecting transfer of gistration Act, 1877,* receiving a memorantenant-right and simultaneous registration of mutadum of a transfer of tenant-right, shall, as tions. Registrar of Mutations, make an entry in the Register of Mutations as if he had received a notice under section 6.

- 23. (1) No person bound to give notice under section 6 shall, after the period therein mentioned, be enti-Disability on failure to tled to obtain a decree for, or recover the give notice. rent of, any land, the subject of the transfer or succession, until he has given such notice; and, if the defendant denies that the notice has been given, or if the Court thinks fit, it may require him to file a certified copy of the entry in the Register of Mutations relative to such land, or to adduce evidence to the satisfaction of the Court that the notice was duly given.
- (2) No tenant bound to give notice under section 6 shall, after the period therein mentioned in any suit in which his landlord is plaintiff and he is a defendant, be entitled to adduce evidence that he is a tenure-holder, raiyat at fixed rates, or raiyat with a right of occupancy in the land held by him, until he has given such notice; but the Court in which any such suit is tried shall afford the defendant sufficient time to enable him to give such notice.
- 24. Whoever voluntarily or negligently omits to give, within the prescribed time, notice under section 6, Penalty for omission to give notice under section 6. shall be liable to such fine, not exceeding fifty rupees, as the Collector of the district may see fit to impose.
- 25. After a notification has been issued under section 5, whoever voluntarily or negligently omits to Penalty for omission to file statement under section file, within the period therein specified, the required statement, shall be liable to such fine, not exceeding one hundred rupees, as the Collector of the district may see fit to impose:

Provided that no person shall be fined under this or the last preceding section who, at any time prior to the institution of proceedings thereunder, or, in the discretion of the Collector of the district, at any time after such institution, has filed the statement required by section 5, or given the notice required by section 6.

^{*} Act III. of 1877; but now see Act XVI. of 1908.

1895. Act 3.

Penalty for omitting to make entry, or making incorrect entry, in Register, with intent to injure.

26. Every Registrar of Mutations, and every person employed in his office for the purposes of this Act, who, being charged with the duty of making any entry in the Register of Mutations, voluntarily omits to make such entry, or makes

an entry therein which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury, as defined in the Indian Penal Code, to any person, shall be punished with imprisonment for a term which may extend to two years or with fine, or with both.

- 27. Whoever commits any of the following offences shall be punishable with imprisonment for a term Penalty for certain other offences. which may extend to two years, or with fine or with both :-- .
- (a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or Making false statements before Registrar of Mutanot, before any Registrar of Mutations in tions. any proceeding or enquiry under this Act;
- (b) falsely personates another, and, in such assumed character, presents any notice, or makes any admis-False personation. sion or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act;
- (c) abets, within the meaning of the Indian Penal Code, anything made punishable under this or the Abetment of certain offences. last preceding section.

PART III.

Recovery of Expenses of a Survey and Preparation of a Record-ofrights.

28. It shall be lawful for the Local Government, instead of proceeding under section 114 of the Bengal Recovery of expenses of initial survey, &c. Tenancy Act, 1885,* to recover, from all or any of the proprietors, landlords, tenants, and rent-free o wners and occupiers in any district or part of a district, either in one year or several years, and in the manner specified in the sections following, their shares of all the expenses declared by the Local Government to be recoverable from proprietors, landlords, tenants, and rent-free owners and occupiers, which have been incurred in making a survey and record-of-rights and a settlement of rents under Chapter X. of the Bengal Tenancy Act, 1885,* such costs not having been incurred for the purposes of a settlement of land-revenue.

29. The Local Government may, from time to time, determine Area, rate, and date of the total expenses which have been incurrecovery of expenses. red in any district or part of a district in making a survey and record-of-rights and the amounts (in such proportions as the Local Government may, from time to time, determine) which shall be paid by the proprietors, landlords, tenants, and rent-free owners and occupiers, respectively, in such district or part of a district, and the date from which the expenses aforesaid shall be recovered; and may specify the rate per acre to be paid by the said proprietors, landlords, tenants, and rent-free owners and occupiers.

1895. Act 3.

- 30. The amount due from proprietors shall be paid together Payment of expenses by proprietors with such instalment of land-revenue as the Local Government may direct, and arrears shall be recoverable under the law* for the time being in force for the recovery of public demands.
- Payment of expenses by occupiers shall, subject to any orders passed tenants and occupiers. by the Local Government under section 28, be paid by them to the Settlement Officer, on tender of such extract from the record-of-rights as they may be entitled to receive. Arrears shall be recoverable under the law* for the time being in force for the recovery of public demands.
- 32. When any proprietor, landlord, tenant, or rent-free owner Recovery from successory or occupier liable to pay any portion of the sors in interest. expenses under an order passed under this Part since such expenses were incurred, has died or has transferred, in whole or in part, his interest in any land on account of which he may have become liable, and such portion of the expenses remains unpaid, it shall be lawful for the Collector to recover the said expenses or any portion thereof from the person in possession of such interest or portion thereof. Such expenses shall be recoverable under the law* tor the time being in force for the recovery of public demands.

PART IV.

Miscellaneous.

33. Every Sub-Registrar appointed under this Act to be a Registrars of Mutations Registrar of Mutations, and every person to be public servants, and appointed temporarily to discharge the their records public records. duties of any such office, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and all official records and papers kept by

^{*} Ben. Act III. of 1913 and B. & O. Act. IV. of 1914.

1895. Act 3. any such officer under this Act shall be held to be public records and the property of Government.

- 34. Every order of a Registrar of Mutations affecting any entry in the Register of Mutations shall be appeals.

 Appeals. appealable for a period of one month from the date thereof to the Collector of the district. No appeal shall lie from any order of a Collector passed under this section.
- 35. The Local Government may, from time to time, vest any
 Local Government may officer other than the Collector of the district
 vest officer with special with special appellate powers under this appellate powers

 Act: and every officer so vested shall be competent to hear and decide any appeal which the Collector of the district is competent to hear and decide under this Act.
- 36. (1) The Local Government, or the Board of Revenue with

 Power to make rules for the sanction of the Local Government, may,
 selection, &c., of Sub Registrars. from time to time, make, repeal, and alter
 rules consistent with this Act—
 - (a) regarding the appointment, control, discipline, and payment of all Registrars of Mutations and their establishments;
 - (b) prescribing the manner of making entries of mutations in the record-of-rights, preparing new editions of such records, and re-publishing them from time to time, or otherwise making them available for public information;
 - (c) regarding the distribution of the expenses incurred under Part III, and
 - (a) generally for the purp ose of giving effect to the provisions of this Act.
- (2) The provisions of section 190 of the Bengal Tenancy Act, 1885, shall apply to rules made under clauses (b), (c), and (d).

BEN. ACT IV. OF 1895.

1895. Acts 4

· The Calcutta Port (Amendment) Act I. of 1895.*

RECEIVED L.-G.'S. ASSENT ON 18TH APRIL, AND G.-G.'S, ON 21ST MAY, 1895.

An Act to further amend the Calcutta Port Act, 1890.

WHEREAS it is expedient to further amend the Calcutta Port Act, 1890; It is hereby enacted as follows:—

Construction and com.

1..(r) This Act shall be read with, and taken as part of, the Calcutta Port Act, 1890.

(2) It shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General.

[Note—The amendments made by the remaining sections (2 to 16) of this Act are incorporated in the Calcutta Port Act (Ben. Act III. of 1890), see supra.]

ACT NO. VI. OF 1895.

The Calcutta Port (Amendment) Act II. of 1895.*

RECEIVED L.-G.'S ASSENT ON 171H AUGUST, AND G.-G.'S, 17TH SEPTEMBER, 1895.

An Act to further amend the Calcutta Port Act, 1890.†

WHEREAS it is expedient to further amend the Calcutta Port Act, 1890; * It is hereby enacted as follows:—

- 1. (1) This Act shall be read with, and taken as part of, the Calcutta Port Act, 1830.*
- (2) It shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General.

[Note.—The amendments made by the remaining sections (2 to 6) of this Act are incorporated in the Calcutta Port Act (Ben. Act 111. of 1890), see supra.]

^{\$} This short title was given by Act I. of 1903.

[†] Ben Act III. of 1890, see supra.

1895. Act 8.

ACT NO. VIII. OF 1895.

Bengal Sanitary Drainage Act, 1895.

RECEIVED L.-G.'S ASSENT ON 1314 AUGUST, AND G.-G.'S, 19TH OCTOBER, 1895.

An Act to facilitate the Construction of Drainage-works for improving the Sanitary Condition of Local Areas.

WHEREAS it is expedient to facilitate the construction of drainage-works for improving the sanitary condition of local areas within the territories administered by the Lieutenant-Governor of Bengal, and to lay down a procedure therefor other than that provided by section 37B of the Bengal Municipal Act, 1884; It is enacted as follows:—

PART 1.

CHAPTER 1.

Short title, extent, and commencement.

1. (1) This Act may be called the Bengal Sanitary Drainage Act, 1895.

(a) Except as hereinafter otherwise provided, it shall extend to all the territories administered by the Lieutenant-Governor of Bengal, which are not included within the limits of any manicipality.*

Definitions.

- 2. In this Act, unless there be something repugnant in the subject or context,—
- (a) "cultivating raiyat" shall have the meaning attached to it in the Cess Act, IX. (B.C.) of 1880:
- (b) "estate" shall have the meaning attached to it in the Cess Act, IX. (B.C.) of 1880:
- (c) "holder of an estate or tenure" shall have the meaning attached to it in the Cess Act, IX. (B.C.) of 1880:
- (d) "local area" means the portion of a district or districts within which a rate is to be levied, in order to liquidate the cost of a scheme adopted by a District Board:
- (e) "tenure" shall have the meaning attached to it in the Cess Act, IX. (B.C.) of 1880:
- (f) "the Collector" means, except as hereinafter provided, the officer in charge of the revenue jurisdiction of the district within which the lands, which form the subject of a scheme under this Act, are situated:

[•] Section 1, sub-section (3) has been repealed by Act I. of 1903.

(g) "the Commissioners" means the Drainage Commissioners under this Act:

1895. Act 8.

- (h) "the Engineer" means the District Engineer or any Engineer specially appointed by the Local Government to perform the functions of an Engineer under this Act:
- (1) "tract" means the portion of a district or districts throughout which the Commissioners are authorized to exercise the functions conferred on them under this Act.

CHAPTER II.

Appointment of the Commissioners.

- 3. (1) Whenever an application is received from a District
 Appointment of "the Board through the Collector and the ComCommissioners." missioner of the Division reporting that
 they believe that the sanitary condition of any tract within their
 jurisdiction has been deterior ated by the obstruction of drainage,
 whether from natural or artificial causes, the Local Government
 may—
 - (a) issue, if it think fit, an order indicating approximately the area of the tract affected, and prescribing the appointment of a number of persons, not less than nine, to be the Drinage Commissioners;
 - (b) direct the District Board to elect not less than half of such number from among the members of the District or Local Board, as the case may be;
 - (c) appoint the remainder of the Commissioners from among the holders of estates and tenures in the tract affected, or from among the managers on behalf of such holders.
 - (2) The Commissioners so created shall elect one of their number to act as Chairman.
- 4 (1) When an affected tract referred to in the last preceding Procedure when several section includes lands subject to the jurislocal authorities are interdiction of more than one local authority, the Local Government, by an order made on the application of any District Board concerned, may costitute a joint Committee to be elected by all the local authorities concerned; the number to be elected by each being determined by the Local Government as far as possible in proportion to the interest of such local authority in the tract affected.
- (2) The Local Government may further confer on any Committee so constituted, or on such of them as may be specified in

1895. the order, all the powers of a District Board under this Act; and such order may contain such provisions respecting the proceedings of any such Committee as may seem proper, and may provide for the payment by the local authorities represented thereby of the expenses incurred by any such Committee, and for the audit of their accounts.

5. The Local Government may, from time to time, accept the Resignation of "the Com. resignation of any of the Commissioners, or missioners." may add to their number; and, in the event of any Commissioner dying, retiring, or ceasing to reside in the district in which such tract is situated, the vacancy so caused shall thereupon be filled by appointment, or by election, as the case may be, the conditions of the original appointment or election being in each case strictly observed:

Provided that not less than half the number of the Commissioners shall always be members of the District or Local Board, as the case may be.

PART II.

CHAPTER I.

Drainage Scheme.

The Commissioners to direct survey, &c., and forward survey and preliminary scheme to the Collector.

Commissioners have been appointed under section 3 or section 5, they shall, without delay, direct the Engineer to prepare a survey plans, and estimates (hereinafter called "the survey") for the restoration or improvement of the drainage of the tract

found by him to be affected, and such survey shall be drawn up in accordance with rules to be framed under section 35 (1) (a). On the completion of the survey, the Commissioners shall, within a period to be fixed by the District Board which made the application (hereinafter called "the District Board"), forward the same to the Collector of the district within which the tract affected, or the principal part of it, is situated, together with a report hereinafter called "the preliminary scheme") containing—

- (a) a statement descriptive of the proposed undertaking, and showing how the drainage is obstructed, with a map of the tract affected;
- (b) an estimate of the total cost of the undertaking including the cost of any land to be acquired under section 16;
- (c) an estimate of the annual cost of maintaining the works:

Provided that, if the tract affected includes any municipal area, the estimate to be framed under clauses (δ) and (ϵ) of this section shall show separately the portion of the cost under each clause, which will be incurred in respect of such municipal area:

Provided, further, that, if one or more municipalities fall within the tract, a separate estimate shall be framed of the cost of constructing and maintaining such portion of the works as lies within the area of any such municipality.

1895. Act 8.

- (2) The Collector shall thereupon cause to be prepared-
 - (d) a statement showing the valuation for cess purposes of the lands included in the tract affected, and the total amount of cesses actually payable on the same;
 - (e) an estimate showing the rate bearing a definite proportion to the road cess payable direct to Government which would provide for the payment with interest, in the course of thirty years, of the amount under clause (b) and the capitalized value of the amount under clause (c) of this section, excluding the portion to be incurred in respect of the municipal area, if any.
- 7. As soon as possible after the receipt of the survey and preThe Collector to publish liminary scheme, the Collector shall publish notification. in every village in the tract affected a notification in the language of the district, calling for objections. Such notification shall be in the form in the Schedule hereto annexed, and may be published by posting the same at each post office and police-station within such tract, and in some conspicuous part of each village, and at the Court of the Munsif within whose jurisdiction such village, or any part thereof, is situated.
- 8. As soon as practicable after the expiry of the period fixed by such notification, the Collector shall for-The Commissioners to ward to the Commissioners the survey and consider the survey, preliminary scheme, and objecpreliminary scheme, together with the petitions, and report thereon. tions of objection, if any, received by him, and shall call upon them to consider such survey and preliminary scheme, together with such objections and within a specified time to forward such survey and preliminary scheme to the Chairman of the District Board, together with their report upon the objections, if any, as well as upon the state of public feeling in regard to such survey and preliminary scheme, and their advice as to their adoption or rejection.
- 9. On receipt of Such Survey and preliminary scheme, the District Board to consider the survey and preliminary scheme. District Board shall, within one month's time, proceed to take them into consideration at a meeting specially called for the purpose.
- Procedure, if survey and reject such survey and preliminary scheme, the cost of such survey, and the reliminary scheme are respected. salary, if any, of the Engineer directed to prepare the same, shall be paid by the District Board.

1895. Act 8.

- 11. If, at such meeting, a majority of the members present, acting on the advice of the Commissioners, Procedure, if survey and preliminary scheme are or with the approval of a majority of not less than two-thirds of such members (such meeting to consist of not less than one-half of the total number of the members of the Board), acting against the advice of the Commissioners, adopt the survey and preliminary scheme, they shall revise the preliminary scheme in the following manner:
 - (i) they shall deduct from the aggregate amount estimated under clauses (b) and (c) of section 6 the sums, if any, which have been either anticipated or promised as private subscriptions or contributed by the District Board, or provisionally promised by the Local Govern-
 - (ii) they shall thereupon submit the preliminary scheme so revised, together with the survey and the report prepared by the Commissioners under section 8, to the Cellector.

Procedure to be followed by the Collector.

12. The Collector shall thereupon—

- (a) calculate the amount, which, if expressed as a rate bearing a definite proportion to the road cess leviable within the tract affected, would pay off the balance in equal annual instalments within thirty years (such instalments being fixed), so as to provide for the payment of interest on any sums borrowed from Government or the public;
- (b) forward such survey and preliminary scheme through the Commissioner of the Division to the Local Government for consideration ·

Provided that, if the instalments so fixed shall exceed the amount annually payable as road cess within the tract affected, the Collector shall return such preliminary scheme to the District Board for further consideration.

- 13. The "survey and preliminary scheme" thus adopted or modified shall be hereinafter called the "Scheme" and "local "scheme," and the tract within which the new drainage rate is to be imposed shall be hereinafter called the "local area." ·
- 14. The Local Government shall consider the scheme thus adopted or revised, together with the report Powers of Local Government. of the Commissioners, and may approve, modify, or reject the same; and, if it approve of modify the scheme, it shall thereupon return it, so approved or modified, to the District Board through the Commissioner of the Division, with an intimation

of the amount which the Local Government will contribute towards 1895. the scheme:

Act 8.

Provided that, if the modification adds materially to the cost of the operations, the scheme thus modified shall again be laid before the District Board for their consideration.

- 15. (1) The District Board may, with the previous consent of the Local Government, at any time reconsider District Board may reconthe scheme adopted by them, and add to, sider scheme, &c., adopted by them. alter, or modify the same; and, if any addition, alteration, or modification is thereupon made by them, they shall lay before the Local Government the scheme so added to. altered, or modified, and the Local Government may sanction the same or any portion thereof; and thenceforth the provisions of this Act shall apply to the scheme as ultimately sanctioned by the Local Government.
- (2) Every material addition, alteration, or modification made by the Local Government, or by a District Board, to or in any scheme after the adoption thereof, shall be published in the manner provided in section 7, and the provisions of sections 8 to 12 (both inclusive) shall apply.
- 16. Any land, likely to be needed in carrying out any scheme sanctioned by the Local Government under Land required for drainage-works how to be acthis Act, may be acquired under the proviquired. sions of the Land Acquisition Act, 1894,* or any similar Act for the time being in force for the acquisition of land for public purposes:

Provided that no compensation shall be paid for land recorded as a water course in the last revenue-survey map published under section 4 of Act IX. of 1847, or any similar enactment for the time being in force, unless it be proved that such land has been under cultivation for a period of not less than twelve years previous to the acquisition.

- 17. (1) All works under this Act shall be executed by the District Board, unless the Local Government Local Government may order such works or any portion of them to order execution of drainageworks by an Engineer apbe executed by more than one District Board. pointed by it. or by an Engineer appointed in that behalf by itself.
- (2) Any person duly authorized to execute any works under this Act may himself, or by his agents and workmen, enter into or upon any lands forming part of the local area, and carry out such works thereupon as may be required

1895. Act 8.

CHAPTER II.

Expenditure and Apportionment.

What amounts should be included in cost of construction.

18. All amounts paid-

- (a) as compensation for any lands taken for the purposes of this Act;
- (b) as salaries of the engineer, officers, servants, or establishments specially employed by the Collector, the Commissioners, or the District Board, for the purposes of this Act;
- (c) for any surveys, plans, estimates, valuation incidental expenses connected therewith, whether antecedent or subsequent to adoption of the scheme,

together with all amounts expended in carrying out the purposes of this Act, shall be included in, and be deemed to constitute, the cost of construction of works.

- 19. (r) The Engineer shall, once in every three months, until Engineer to report protes the works shall be finally completed, submit gress and completion of to the District Board a detailed report showworks.

 ing the progress of the works and the amount expended thereon up to date from the commencement of the work, or from the date of the last report; and when the works are completed, and the accounts closed, he shall submit to the District Board a final report showing the total cost.
- (2) If the local area includes areas subject to the jurisdiction of more than one local authority, the proportion of such cost shall be defrayed by each local authority as far as possible in proportion to their interest in the work executed.
- (3) The District Board shall forward a copy of this report to the Local Government through the Commissioner of the Division with such remarks as to them shall seem fit; and, in the event of any local authority objecting to the proposed apportionment, the Local Government shall determine the proportion to be paid by them. The decision of the Local Government thereon shall be final.

Amount to be apportioned how to be determined.

20. The total cost of construction mentioned in section 18 shall be ascertained by adding together—

- (a) the actual amount expended;
- (b) the interest payable on the loans under the Local Authorities' Loans Act, 1879,* if any;

(c) the capitalized value of the estimated cost of maintenance. 1895. From this sum shall be deducted the amounts subscribed or Act 8.

contributed as contemplated in sections 11 and 14.

- 21. On receipt of the final report mentioned in section 19, the The Collector to deter. District Board shall require the Collector, within three months, to determine the amount of rate which shall be collected with the road cess annually payable direct to Government within the local area, and shall be sufficient to provide for the payment of the cost of construction, as defined in section 20, in the course of not more than thirty years, excluding the portion to be incurred in respect of the municipal area, if any.
- 22. (1) The rate so determined shall be published as provided in section 40 of the Cess Act, 1880;* and Rate to be published and to be paid with the road. shall be paid together with the road cess payable by those liable to pay such cess direct to Government within the local area until such time as the period of not more than thirty years from the date of publication shall have expired, or the cost of construction of the works has been liquidated.
- (2) All arrears of such rates shall be recoverable under the law't for the time being in force for the recovery of public demands.
- 23. Any holder of an estate or tenure, who shall pay to the Share to be recovered by Collector any instalment of such rate payestate or tenure-holder. able under the last preceding section, shall be entitled to recover half the amount of the instalment so paid from the holder of a tenure or cultivating raiyat holding lands within the local area under such holder of an estate or tenure in the same proportion, and in the same manner, as he is entitled to recover road cess or public works cess payable under the provisions of the Cess Act, 1880.*
- 24. Any holder of a tenure, who shall pay to the holder of an estate or tenure the sum due to such holder Amount to be recovered by tenure-holder from raiunder the last preceding section, shall be entitled to recover half the sum so paid from the cultivating raiyats holding lands within the local area under such holder of a tenure, in the same proportion, and in the same manner, as he is entitled to recover road cess or public works cess payable under the provisions of the Cess Act, 1880.*
- 25. (1) When the local area includes a municipal area, the amount payable under section 10 shall be Recovery of municipal portion of cost. defrayed by the municipality.

^{*} Ben Act IX. of 1880.—See supra.

[†] The Public Demands' Recovery Act (Ben. Act I, of 1895).—See supra.

1895. Act 8. (2) In order to provide for the payment with interest of such municipal share at the rate payable to Government by the District Board within a period of not less than thiry years, the amount required may be raised by an additional rate to be added to the tax upon persons, or to the rate on the annual value of holdings, as the case may be.

PART III.

CHAPTER I.

Miscellaneous.

- 26. All outlets and water-channels, natural or artificial, which Drainage-works subject to laws relating to public embankments. shall be cleared, altered, enlarged, excavated, or cut under the provisions of this Act, and the construction and maintenance of embankments and dams, and works therein or connected therewith, shall be subject to the law for the time being in force regulating the construction and maintenance of public embankments, rivers, channels, and outlets.
- 27. (1) Any person who, without lawful authority, erects, or Penalty for constructing causes to be erected any weir or other observations. Struction in any outlet or water-channel, or cultivates the bed of a water-channel, so as to obstruct natural drainage, shall, upon conviction before a Magistrate, be liable to a penalty not exceeding two hundred rupees for every such offence.
- (2) It shall be in the discretion of such Magistrate to direct any such offender to remove, and pay for the entire cost of the removal of, any such obstruction.
- 28. All lands which are taken under the provisions of this

 Lands taken and works

 Constructed under Act to be under District Board

 as well as all outlets, water-channels, embankments and dams so constructed, cleared, altered, enlarged, excavated, or cut, shall be under the control and administration of the District Board.
- Powers of the Commissioners, the Collector, and the Commissioner of the Division, shall have all such powers as are conferred on Civil Courts by the Code of Civil Procedure* for the purpose of compelling the attendance of witnesses and the production of evidence, and for the purpose of examining witnesses in any enquiry or appeal, which they may be empowered to make or entertain under the provisions of this Act.

30. No proceeding under this Act shall be defeated or 1895. invalidated by reason of any defect or omis-Proceedings not to be sion in the publication or service of any invalidated by irregularinotification, notice, or order, unless material injury is done to any person by such defect or omission.

Act 8.

- 31. The Local Government may specially empower any person to do all such acts, to discharge all such Local Government may functions, and to exercise all such powers empower any person to act for the Collector. as may be done, discharged, or exercised by a Collector under this Act: and, on any person being so specially empowered, such person may do all such acts, discharge all such functions, and exercise all such powers, and such person shall be deemed to be the Collector for the purposes of the scheme in respect of which he is so specially empowered.
- 32. (1) The Collector may, with the sanction of the Commissioner of the Division, delegate to any The Collector may delegate his authority to Deputy or Assistant Collector the perforanother mance of any acts or the discharge of any functions, which the said Collector may perform or discharge under this Act
- (2) Upon such delegation, such Deputy Collector or other officer may do such acts, discharge such functions, and exercise such powers for the performance of the same, as the Collector may exercise under this Act:

Provided that all acts done, functions discharged, and powers exercised by such officer, shall be done, discharged, or exercised subject to the control and supervision of the Collector.

- 33. Notwithstanding anything hereinbefore contained, all the proceedings of the Commissioners and of Proceedings of the Comthe Collector under this Act shall be subject missioners and the Collecto the general control and supervision of the tor subject to control of Commissioner of Division Commissioner of the Division, or when the tract or local area affected comprises lands situated in more than one Division, of such Commissioner as the Local Government may direct.
- 34. If, at any time, the Local Government is satisfied that the cost of any scheme of works, including the Local Government may cost of maintenance, has been erroneously direct cessation of work and revision of the scheme. estimated, it may direct that the scheme be no further proceeded with until the same has been revised.

1895. Act 8.

CHAPTER II.

Rules.

Power of Local Government to make rules, and to cancel them.

35. (1) It shall be lawful for the Local Government, from time to time, to make, and, when made, to alter or repeal, rules not inconsistent with this Act for the purpose of—

- (a) prescribing the forms of accounts, surveys, plans, estimates, periodical statements, and reports;
- (b) regulating the conduct of business at the meetings of the Commissioners;
- (c) regulating the instalments by which, and the mode in which, sums payable under this Act shall be paid;
- (d) regulating the carrying-out and maintenance of works, when one or more local authorities are concerned;
- (e) ascertaining the capitalized value of the estimated cost of maintenance of drainage-works;
- (f) providing for professional supervision over the preparation of surveys, plans, and estimates and the execution and maintenance of drainage-works;
- (g) allotting the duties of the Collector under this Act among Collectors of different districts as may be convenient; and
- "(h) generally carrying out the purposes of this Act.
- (2) The Local Government shall before making, altering, or repealing rules under this section, publish a draft of the proposed rules and alterations and a notification of the proposed repeals, in three consecutive numbers of the calcutta Gazette, and shall specify a date, not less than one month from the date of publication, at or after which such draft and notification will be taken into consideration.
- (3) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to such draft and notification before the date so specified.
- (4) Every rule so made or altered, and every repeal of any such rule under this section, shall be thereafter published in the Calcutta Gasette.

SCHEDULĖ.

(See section 7.)

1895. Act 8.

BENGAL SANITARY DRAINAGE ACT, 1895.

To all whom it may concern:

TAKE notice that, with the object of improving the sanitary condition of the country, it is proposed to restore or improve the drainage in the thanas of district.

Copies of the plans and estimates of the work proposed, which will affect (so many) villages, are now in the office of and may be inspected by any persons interested at any time between 11 A. M. and 5 P.M., Sundays and holidays excepted, up to and including the day of

It is estimated that, if the said drainage-scheme is carried out, a rate will be payable by the residents of the villages affected which will be equivalent to on every rupee now paid as road cess for a period of thirty years from the date of the completion of the works, unless the District Board shall decide to collect the amount within a shorter period.

Any person objecting to the execution of the said works, shall submit a petition in writing, duly signed, to the Collector of . . . on or before the . . . day

Any person who does not object in the manner and within the time mentioned shall be held to have assented to the execution of the works.

Collector.

ACT NO. 1. OF 1896.

The Protection of Muhammadan Pilgrims Act, 1896.

RECEIVED L.-G.'S ASSENT ON 17TH APRIL, AND G.-G.'S, 27TH MAY, 1896.

An Act to provide for the Protection of Muhammadan Pilgrims.

WHEREAS it is expedient to provide for the protection of Muhammadan pilgrims; It is hereby enacted as follows:-

1. (1) This Act may be called the Pro-Short title, extent, and commencement. tection of Muhammadan Pilgrims Act, 1806;

- (2) It extends, in the first instance, to Calcutta only, but the Local Government may, by notification in the Calcutta Gazette, extend it to any other place in the Province of Bengal; and
 - (3) It shall come into force,—
 - (a) in Calcutta, from the date on which it may be published, in the Calcutta Gazette, with the assent of the Governor-General, and
 - (b) in any place to which it may be extended by notification under sub-section (2) of this section, from the date specified in this behalf in such notification.

1064 PROTECTION OF MUHAMMADAN PILGRIMS.

1896. Act 1.

Definitions.

- 2. In this Act, unless there be something repugnant in the subject or context,—
- (a) "pilgrim" means a Muhammadan who is proceeding to, or returning from, the Hedjaz;
- (b) "pilgrim-broker" means a person who buys and re-sells, or sells on commission, or takes any reward for the purchase or sell of pas sage-tickets, whether by sea or railway, for pilgrims;
- (c) "agent" includes a person who has chartered a ship
 for the conveyance of pilgrims;
- (d) "Calcutta" means the area for the time being included in "Calcutta" as defined in the Calcutta Municipal Consolidation Act, 1888,* and includes the Port of Calcutta; and
- (e) "Commissioner of Police" means,--
 - (i) as regards Calcutta, the Commissioner of Police for that town, and,
 - (ii) as regards any place to which this Act may hereafter be extended, any person whom the Local Government may appoint, by name or by virtue of his office, to perform in such place the functions of the Commissioner of Police under this Act.
- 3. (1) The Commissioner of Police shall, from time to time,
 Grant of licenses to act grant licenses empowering persons to act as
 pilgrim-brokers.

 pilgrim-brokers.
- (2) The Local Government may, from time to time, make rules to regulate the grant of such licenses, and to prescribe the conditions to be embodied therein.
 - (3) All such rules shall be published in the Calcutta Gazette.

Licenses what to specify

- 4. Every such license shall specify—
- (a) the name and address of the licensee;
- (b) the period for which the license is to be in force; and
- (c) the conditions subject to which the license is granted.
- 5. Any person who, without a license granted under section 3,

 Penalty for acting as pil. acts as a pilgrim-broker, or who lends to angrim-broker without a license, or for lending license. other person a license granted to himself under that section, shall, on conviction, be liable to fine which may extend to two hundred rupees for each offence.

^{*} Ben. Act II. of 1888. But see now the new Calcutta Municipal Act (Ben. Act III. of 1899), by which the former Act has entirely been repealed.—See s. 2 of the latter Act, infra.

Penalty for misbehaviour of licensed pilgrim-broker.

6. If any licensed pilgrim-broker—

1896.

- (a) commits a breach of any of the conditions of his license; Act 1.
- (b) purchases for, or sells to, any pilgrim a passage-ticket by any ship to which the Native Passenger Ships Act, 1887,* applies, at any time before notice has been given, by the master, owner, or agent of the ship, under section 7 of that Act, of the time at which it is proposed that the ship shall sail; or
- (c) purchases for, or sells to, any pilgrim a passage-ticket by any ship, unless the proposed time of sailing is printed on such ticket; or
- (d) charges any pilgrim a sum in excess of the cost price of any passage-ticket, or of any provisions or other articles purchased for him, or receives from him any fee or commission on account of any such ticket; or
- (e) receives from the master, owner, or agent of any ship, or from any railway-servant, any fee or commission in respect of the sale of any passage-ticket for a pilgrim, exceeding five per centum of the price of such ticket; or
- (f) purchases for any pilgrim a passage-ticket on which there is not printed or stamped the price charged for the passage according to the class of accommodation secured; or,
- (g) by fraud or false representation, or by any false pretence whatever, induces any person to purchase a pilgrim's passage-ticket,

he shall, on conviction, be liable to fine which may extend to two hundred rupees for each offence.

Power to suspend and 7. The Commissioner of Police may—cancel licenses.

- (a) suspend the license of any pilgrim-broker, pending an enquiry into any accusation against him of misconduct for which; if proved, he would be liable to fine under section 6, and
- (b) cancel the license granted to any pilgrim-broker who is convicted of any offence under this Act, or of any other criminal offence.
- 8. (1) The Local Government may, from time to time, appoint
 Appointment and duties any persons being Muhammadans to be Proof Protectors of Pilgrims, tectors of Pilgrims for Calcutta, or for any
 place to which this Act may hereafter be extended.

- Act 1: (2) Every Protector of Filgrims shall, for the purposes of this Act, be subordinate to the Commissioner of Police, and shall aid the Commissioner in giving effect to the provisions of this Act, shall advise and generally assist pilgrims during their stay in the place for which the Protector is appointed, and shall exercise supervision over the proceedings of all licensed pilgrim-brokers therein.
 - 9 Any Protector of Pilgrims, or any person authorized by the Power to enter ships conveying pilgrims.

 Commissioner of Police in this behalf, shall be at liberty at all times to enter and inspect any ship advertised or offered to convey pilgrims from the Port of Calcutta or any place to which this Act may hereafter be extended.
 - 10. If the master or any officer of any such ship does not afford

 Penalty for not facilitating every rea-onable facility for such inspection, he shall, on convection, be liable to fine which may extend to two hundred rupees for each offence.
 - 11. It shall be incumbent on the master, owner, or agent of Information to be supplied every such ship to supply the Protector of by master owner, or agent of ship conveying pilgrims. Pilgrims, on demand, with full particulars as to the class, tonnage, and age of the ship, the number of passage-tickets of each class to be issued for pilgrims, the price of each such ticket, the accommodation to be provided for pilgrims, the latest date of sailing, the ports, if any, to be touched at, and the probable date of the arrival of the ship at Jeddah.
 - 12. Whoever, as master, owner, or agent of any such ship,
 Penalty for refusal or refuses, or, without lawful excuse, omits, to
 omission to give such ingive on demand any such information, or
 formation, or for giving furnishes any such information which he
 believes to be false, shall, on conviction, be
 liable to fine which may extend to two hundred rupees for each
 offence.
 - 13 Whoever, as master, owner, or agent of any such ship,
 Penalty for issuing tickets issues any passage-ticket for a pilgrim in
 excess.

 A granted under the Native Passenger Ships Act, 1887,* shall, for
 every passage-ticket so issued, be liable, on conviction, to fine
 which may extend to four times the original cost price of such
 ticket.
 - 14. (1) All passage-tickets for pilgrims shall be numbered Passage-tickets to be numbered consecutively, and to have price marked. consecutively according to the order of issue, and shall have printed or stamped thereon the price charged for the passage.
 - (2) Whoever, as master, owner, or agent of any ship, issues two or more of such tickets bearing the same number, or issues any such ticket on which the price charge for the passage is not printed

or stamped, shall, on conviction, be liable to fine which may extend to two hundred rupees for each offence.

1896. Aots 1 & 2.

Certain provisions of Native Passenger Ships Act, 1887, to apply to offences and fines under this Act.

15. Sections 46, 47, and 49 of the Native Passenger Ships Act, 1887,* shall apply, throughout the territories under the administration of the Lieutenant-Governor of Bengal, to all offences punishable, and fines leviable, under this Act.

Certain penalties to be enforced only at the instance of the Commissioner of Police.

- 16. The penalties to which masters' owners, and agents of ships are made liable by this Act shall be enforced only on information laid at the instance of the Commissioner of Police.
- 17. From the day on which the Pilgrim Ships Act, 1895,† comes into force, the references in this Act to the Construction of refer-Native Passenger Ships Act, 1887,* shall be ences to the Native Passen. ger Ships Act, 1887. read as if made to the corresponding provisions of the said Pilgrim Ships Act.†

ACT. NO. II. OF 18,6.1

The Bengal Municipal (Amendment) Act, 1835.

RECEIVED L.-G.'S ASSENT ON 4TH SEPTEMBER, AND G.-G.'S, 21ST OCTOBER, 1896.

An Act to further amend the Bengal Municipal Act, 1884. ||

WHEREAS it is expedient to further amend the Bengal Municipal Act, 1884; It is hereby enacted as follows:-

- 1. This Act shall come into force on the day on which it is first published in the Calcutta Gasette with the Commencement. assent of the Governor-General thereto.
- 2. The word "section," as used in sections 3 to 18, both inclusive, of this Act, means a section of the Meaning of "section." said Bengal Municipal Act, 1884, as amended by Bengal Act IV. of 1894.

[Note.-The amendments made by ss. 3 to 18 have been incorporated in the Bengal Municipal Act (Ben, Act III. of 1834), see supra.]

^{&#}x27;* Act X. of 1887.

[†] Act XIV. of 1895. Ben Act II. of 1896 has been extended, by notification under s. 3 (a) of the Scheduled Districts Act (XIV. of 1874) to the Municipalities of Silhat, Gauhati, and Dibrugarh.—See Notification Ivo. 2363-J., dated June 10, 1897, published in the Gasette of India, 1897, Pt I., p. 662, and in the Assam Gasette, 1897, Pt. II., p. 624.

⁶ This short title was given by Act I, of 1903.

Ben. Act III. of 1884.-See supra.

1897. Act 2. 19. The following portions of Bengal Act IV. of 1894 (an Act to Repeal portions of Benamend the Bengal Municipal Act, 1884), gal Act IV. of 1894. namely, section 7, sub-section (1), from "and after clause 2" to the end, and section 31, are hereby repealed

ACT NO. 11. OF 1897.

The Murray Trust Act, 1897.

RECEIVED L.-G.'S ASSENT ON 15TH FEBRUARY, AND G.-G.'S, 8TH APRIL, 1897.

An Act to enlarge the Scope of the Charitable Trust created by the Will of the late Mrs. Sally Murray.

WHEREAS the late Mrs. Sally Murray, of Calcutta, widow of Daniel Murray, deceased, by her last Will and Testament excuted on the 5th day of November, 1844, inter alia created a Charitable Trust in the following terms, namely:—

"I direct my said Trustees, so soon as they shall receive the proceeds of any of the said three several houses, to pay over the same and the residue of my estate then remaining in their hands to the Wardens or Warden for the time being of St. John's Cathedral in Calcutta, and I declare that the receipts or receipt of such Wardens or Warden, for the time being, shall be good and sufficient discharges and releases or discharge or release to the said Trustees for the moneys therein respectively mentioned;

"I request the said Wardens or Warden to pay and apply the moneys received by them or him under this my Will in obtaining the release from custody of persons deserving of, or fit objects of, charity and commiseration who may, from time to time, be imprisoned in the great Jail of Calcutta for debt;"

AND WHEREAS St. John's Cathedral ceased to be a Cathedral in the year 1847, and the moneys constituting the said Trust were made over to the Wardens of St. John's Church, Calcutta, in or about the year 1861, and are now, together with interest which has accumulated thereon, vested in the said Wardens;

AND WHEREAS recent legislation, especially the Debtors Act, 1888,* passed by the Governor-General of India in Council, has so altered the position of deserving and unfortunate debtors that there is now, and has for some years past been, a practical failure of the object of the said Trust;

AND WHEREAS it is expedient that the intention of the author of the said Trust should be carried out, as far as is, under existing circumstances, possible, by enlarging the scope of the Trust so as to include deserving poor persons in Calcutta who are not undergoing imprisonment for debt;

Short title and commencement.

It is hereby enacted as follows:

1. (1) This Act may be called the Murray Trust Act, 1897; and

1897. Acts 2

& 3.

- (2) It shall come into force on the day on which it is first published in the Calcutta Gazette with the assent of the Governor-General thereto.
- 2. All moneys which now are, or hereafter may be, vested in the Administration of the Murch Wardens of St. John's Church, Calray Charitable Trust cutta, in pursuance of the Trust cited in the preamble to this Act, shall be held and applied by the said Wardens and their successors in the office of Warden of the said Church upon the following trusts, that is to say:—
 - (1) to obtain the release from custody of persons deserving of, or fit objects of, charity and commiseration who may, from time to time, be imprisoned in the Calcutta Jail for debt:
 - (2) if, at any time, there be no such persons as aforesaid, or after the release of all such persons has been so obtained, to afford, to deserving persons who are discharged from the Calcutta Jail after undergoing a term of imprisonment imposed for a criminal offence, such assistance as the Church Wardens for the time being may consider requisite to enable them to earn their living honestly; and
 - (3) after such assistance as aforesaid has been afforded, to afford relief to the deserving poor of Calcutta.

ACT NO. III. OF 1897.

The Bengal Rain-Gambling Act, 1897.

RECEIVED L.-G.'s ASSENT ON 8TH APRIL, AND G.-G.'s, 10TH MAY, 1897.

An Act for the Suppression of Rain-gambling in Common Gaming-houses,

WHEREAS it is expedient to amend the law in force in Bengal so as to secure the suppression of the practice of rain-gambling in common gaming-houses; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Bengal Rain-gambling Act, 1897; and

- (2) It shall come into force on the day on which it is first published in the Calcutta Gasette after having received the assent of the Governor-General.
- (3) Section 4 shall further be deemed to be in force on and from the said day in every city, town, or place to which Bengal Act II. of

- 1897. 1867 (an Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal) or any part thereof, has, before that day, been extended by notification under its second section.
 - 2. (1) To the definition of "common gaming-house" in section Amendment of Bengal Act 3 of the Calcutta Police Act, 1866,* the follow-IV., 1866, section 3. ing shall be added namely: "or in which, rain-gambling, that is to say, wagering on the occurrence or non-occurrence of rain, is carried on for the profit or gain of any such person as aforesaid."
 - (2) After the said definition, the following shall be inserted, namely:—
 - "'gaming' shall include rain-gambling;
 - 'instruments of gaming' shall include books or registers in which rain-gambling wagers are entered, all other documents containing evidence of such wagers, and any thing used as a means of rain-gambling."
 - 3. To section 59 of Act XXI. of 1857 (an 4ct to make better Amendment of Act XXI., provision for the order and good government of the station of Howrah) the following shall be added, namely:—
 - "'common gaming-house' shall include any house, tent, room, space, or walled enclosure in which rain-gambling, that is to say, wagering on the occurrence or non-occurrence of rain, is carried on for the profit or gain of the person owning, occupying, using, or keeping such house, tent, room, space, or enclosure;
 - 'gaming' shall include rain-gambling; and
 - 'instruments of gaming' shall include books or registers in which rain-gambling wagers are entered, all other documents containing evidence of such wagers, and any thing used as a means of rain-gambling."
 - 4. (1) To the definition of "common gaming-house" in sec-Amendment of Bengal tion 1 of Bengal Act II. of 1867 (an Act Act II., 1867, section 1. to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal) the following shall be added, namely:—
 - "or in which rain-gambling that is to say, wagering on the occurrence or non-occurrence of rain, is carried on for the profit or gain of any such person as aforesaid."
 - (2) After the said definition, the following shall be inserted, namely:—
 - "gaming' shall include rain-gambling;

'instruments of gaming' shall include books or registers in 1897. which rain-gambling wagers are entered, all other documents containing evidence of such wagers, and any thing used as a means of rain-gambling."

ACT NO. IV. OF 1897.

Chota Nagpur Commutation Act, 1897.

RECEIVED L.-G.'S ASSENT ON 7TH SEPTEMBER, AND G.-G.'S, 5TH OCTOBER, 1897.

An Act to regulate the Commutation of Predial Conditions or Services in Parts of Chota Nagpur.

WHEREAS it is expedient to amend the law relating to the voluntary commutation of conditions or services appurtenant to the occupation of land other than the rent in certain districts in the Chota Nagpur Division, and to provide for the compulsory record, with or without commutation, of such conditions or services as aforesaid, in the said districts;

It is hereby enacted as follows:-

CHAPTER I.

PRELIMINARY.

Short title, extent, and commencement.'

1. (1) This Act may be called the Chota Nagpur Commutation Act, 1897;

- (2) It extends to the districts of Hazaribagh, Lohardaga, Palamau, and Singhbhum, in the Chota Nagpur Division; and
- (3) It shall come into force in any such district, or in any part thereof, on such day as the Local Government may appoint in that behalf by notification in the Caicutta Gazette.

2. [Repeal].--Repealed by Act I. of 1903.

Definitions.

- 3. (1) In this Act, unless there is anything repugnant in the subject or context,—
- (a) "Revenue-officer" means any officer whom the Local Government may, from time to time, appoint, by name or by virtue of his office, to discharge any of the functions of a Revenue-officer under this Act;
- (b) "predial conditions or services" mean conditions or services appurtenant to the occupation of land other than the rent:
- (c) "conditions" include rakumats and abwabs which, by custom, are payable by raiyats to their landlords, and
- (d) "agricultural year" means the year prevailing in a local area for agricultural purposes.

1897.

Act 4.

(2) If it appears to the Local Government to be doubtful what year prevails in any particular area for agricultural purposes, the Local Government may, by notification in the Calcutta Gazette declare upon what dates such year shall be deemed to commence and terminate respectively.

CHAPTER II.

COMMUTATION AND RECORD OF PREDIAL CONDITIONS OR SER-VICES.

- 4. (1) When any land is held subject to any predial conditions

 Voluntary commutation or services, the tenant of such land, or the person who has the right to the benefit of such conditions or services, may apply in writing to the Revenue-officer for commutation of such conditions or services.
- (2) The Revenue-officer shall thereupon cause a notice to be served on each of the other persons who, under sub-section (1), would have a right to make such application, and shall fix a day for considering the application; and, on such day, or on any day thereafter to which the hearing may be adjourned, shall proceed to inquire into the matter, and to determine the amount which, in his judgment, is fairly and equitably payable in commutation of such conditions or services.
- (3) In calculating the said amount, the Revenue-officer shall have regard to the conditions or services to which the tenant is liable in accordance with ancient custom and the money-value of such conditions or services at the time of making such calculation:

'[Provided that the amount payable in commutation shall be so fixed that the total annual rent of the land, including such amount as aforesaid, shall not exceed the rent which would be fair and reasonable if the land were not held subject to any predial conditions or services].*

Power to order record of predial conditions or services, with or without commutation.

- 5. (1) The Local Government may, in any case in which it is, in its opinion, expedient so to do, make an order directing either—
- (a) that a record of all predial conditions or services to which the lands within any local area or any estate, tenure, or part thereof are subject, shall be prepared, and a commutation of such conditions or services made by a Revenue-officer; or
- (b) that a record as aforesaid be made by a Revenue officer without commutation of such conditions or services as aforesaid.

^{*} Proviso to s. 4, sub s. (3) has been substituted by Ben. Act V. of 1903.

- (2) A notification in the Calcutta Gazette of an order under this section shall be conclusive evidence that the order has been duly made.
- (3) The record of conditions or services shall be prepared in accordance with rules made under section 13.
 - 6. (1) Whenever an order is made under section 5, the Revenue-officer shall thereupon proceed to prepare a record containing the following particulars, namely:—
 - (a) the name of each tenant;
 - (b) the name of his landlord;
 - (c) the rent payable for the lands held by him at the time the record is being prepared;
 - (d) the predial conditions or services to which all or any of such lands are subject;
 - (e) the amount which, in the judgment of the Revenue-officer, may fairly be deemed payable in commutation of such conditions or services;
 - (f) such other particulars as may, from time to time, be prescribed by the Board of Revenue.
- (2) In calculating the amount payable in commutation of such conditions or services, the Revenue-officer shall be guided by the provisions of section 4, sub-section (3).
- 7. (1) When the Revenue-officer has prepared a record under section 6, he shall cause a draft of the same to be locally published in the manner, and shall receive and consider any objections which may be made to any entry therein, or to any omission therefrom, during the period of publication.
- (2) When objections have been considered and disposed of in accordance with the rules made under section 13, the record shall be finally framed and published in the manner prescribed by those rules.
- (3) Separate drafts or records may be published under subsection (1) or sub-section (2) for different local areas, estates, tenures, or parts thereof.
- 8. (1) An appeal from any order of a Revenue-officer under
 Appeals from orders of Revenue-officers.
 this Chapter shall lie to the Deputy Commissioner, or, if the Revenue-officer is himself the Deputy Commissioner, then to the Commissioner of the Division.
- (2) When an appeal has been disposed of by the Deputy Commissioner under sub-section (1), an appeal from his order shall lie to the Commissioner.

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 (3) The provisions of the Code of Civil Procedure* relating to appeals shall, as nearly as may be, apply to all appeals under subsection (1) or sub-section (2).
 - (4) Where the Commissioner concurs with the Deputy Commissioner, the order shall be final, but, in other cases, an appeal shall lie to the Board of Revenue from the order of the Commissioner.
 - (5) Every appeal under sub-section (1) must be presented within three months, and every appeal under sub-section (2) or sub-section (1) must be presented within one month, from the date of the order appealed against.
 - 9. The Commissioner or the Board of Revenue may direct the Revision by Commissioner or Board. The Chapter, or any portion of such record at any time within two years from the date of the final publication of the record, but not so as to affect any decision from which an appeal has been preferred under section 8:

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

9A.† In every local area, estate, tenure or part thereof in which

Procedure where a survey and record of rights are being made under the Bengal Tenancy Act, 1885.

Tenancy Act, 1885.

Tenancy Act, 1885.

and in which a record of predial conditions or services is being prepared and a commutation thereof is being made under an order issued under section 5 of this Act,

the following provisions shall have effect, instead of those contained in sections 6 to 9 of this Act, namely—

(1) The Revenue-officer shall, at the time of attesting the preliminary record, ascertain all the predial conditions or services to which, by ancient custom, the general body of tenants are liable, and the cash values of such services;

and shall prepare a statement, in such form as the Board of Revenue may from time to time prescribe, showing the conditions, services and values so ascertained.

- (2) In calculating the cash value of such services the Revenue-officer shall be guided by the provisions of section 4, sub-section (3).
- (3) The Revenue officer shall enter in the *Khatian* of each tenant the cash value of the predial conditions or services (if any) to which such tenant is liable, as ascertained under clause (1).

^{*} Act XIV. of 1882.

[†] S. 9 A has been inserted by Ben. Act V. of 1903.

Act VIII. of 1885.

(4) If any tenant, by ancient custom, is liable to any predial conditions or services other than those to which the general body of tenants are liable, or is not liable to all the predial conditions or services to which the general body of tenants are liable, the Revenue-officer shall also specify in the Khatian the predial conditions or services to which such tenant is liable.

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- (5) The statement prepared under clause (1), and the entries in the *Khatian* shall be published in draft in the same manner and for the same period as the record-of-rights.
- (6) Objections as to entries or omissions, in the statement or *Khatian*, relating to predial conditions or services, may be made under the same conditions as objections to entires in or omissions from the record-of-rights, and shall be disposed of in the same manner as such objections.
- (7) After the disposal of objections, the said statement, and the entries in the *Khatian* relating to predial conditions or services, shall be finally published at the same time and in the same manner as the record-of-right.
- (8) At any time within three months from the date of the certificate of the final publication of the record-of-rights under the Bengal Tenancy Act, 1885,* section 103A, sub-section (2), a suit may be instituted before the Revenue-officer who prepared such record, by presenting a plaint on stamped paper,

for the decision of any dispute regarding any entry in the record relating to predial conditions or services, or regarding any omission to enter any such conditions or services in the record,

and the Revenue-officer shall hear and decide the dispute.

- (9) In all such suits the Revenue-officer, shall subject to any rules made by the Local Government in this behalf, adopt the procedure laid down in the Chota Nagpur Landlord and Tenant Procedure Act† for the trials of suits; and his decision shall, subject to an appeal to the Commissioner under clause (10) be final.
- (10) An appeal shall lie to the Commissioner from any decision of a Revenue-officer under clause (8), if presented within three months from the date of the decision; and the decision of the Commissioner shall be final.
- 10. (1) When the commutation of any predial conditions or Communication services is settled under this Chapter for any local area or estate, tenure, or part thereof, the settlement shall take effect from the beginning of the agricultural year next after the final publication of the record; and, from that time, the imposition of any predial conditions or services on any tenants of the local area or estate, tenure, or part thereof shall be illegal; and all stipulations and resevations for rendering

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- (2) The amount determined by a Revenue-officer under this Chapter to be payable by a tenant in commutation of predial conditions or services shall be deemed to be part of the rent payable by the tenant, and shall be recoverable accordingly.
- 11. (1) The Revenue-officer may require any person applying for commutation under section 4 to deposit Expenses of voluntary comin advance the whole or any part of the estimated amount of the expenses to be incurred thereunder.
- (2) When, in any case, the proceedings under section 4 have been completed, the Revenue-officer shall apportion the total expenses thereof between the landlord and tenant in such proportion as, having regard to all the circumstances, he may deem fit, and the amounts so apportioned shall be recoverable as an arrear of land-revenue.
- (3) If the amount deposited by any person in pursuance of sub-section (1) exceeds the sum apportioned to him under subsection (2), the excess shall, when the proceedings have been completed, be refunded to him.
- 12. (1) The expenses incurred by the Government in carrying Expenses of record and out, in any local area or any estate, tenure, compulsory commutation. or part thereof, any order made under section 5, or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords and tenants of land in that local area, estate, tenure, or part, in such proportions as the Local Government, having regard to all the circumstances, may determine.
- (2) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area. estate, tenure, or part,

Explanation.—The word "tenure" in this section includes all revenue-free and tent-free tenures and holdings within a local area, estate, or tenure.

12A.† No proceedings under this Act shall bar the right of any tenant or landlord to claim a reduction Saving of right to claim reduction or enhancement of or enhancement of rent in accordance with law after such proceedings have been completed.

^{*} S. 12 A has been added by Ban. Act V. of 1903

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Rules.

Power to make rules.

13. The Local Government may from time to time, by notification in the Calcutta Gasette, make rules—

- (1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may, by such rules, confer upon any Revenue-officer—
 - (a) any power excercised by a Civil Court in the trial of suits.
 - (b) power to enter upon any land, and to survey, demarcate, and make a map of the same, and
 - (c) any power exercisible by any officer under the Bengal Survey Act, 1875;*
 - (2) to prescribe the mode of service of notices under section 4;
- (3) to prescribe the manner of preparing records under Chapter :1,
- (4) to prescribe the manner in which, and the period for which, draft-records shall be published under section 7, and the manner in which objections to a draft-record shall be disposed of;
- (5) to prescribe the manner in which records shall be finally published under section 7; and,
- (6) generally, for the guidance of Revenue-officers in carrying out the provisions of Chapter II.
- 14. (1) The Local Government shall, before making rules

 Procedure for making under section 13, publish a draft of the
 and publishing rules. proposed rules for the information of persons
 likely to be affected thereby.
- (2) The publication shall be made in such manner as may, in the opinion of the Local Government, be sufficient for giving information to persons interested:

Provided that every such draft shall be published in the Calcutta Gasette.

- (3) There shall be published with the draft a notice specifying a day, not earlier than one month after the date of publication, on or after which the draft will be taken into consideration.
- (4) The Local Government shall consider any objection or suggestion which may be received by it from any person with respect to the draft before the day so specified.
- (5) The publication in the Calcutta Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.
- (6) All rules made under this Act may, from time to time, be amended, added to, or cancelled by the Local Government.

^{*} Ben. Act V. of 1875-See supra.

ACT NO. V. OF 1897.

The Estates Partition Act, 1897.

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ACT NO. V. OF 1897.

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The Estates Partition Act, 1897.

RECEIVED L.-G.'S ASSENT ON 11TH SEPTEMBER, AND G.-G.'S, 23RD OCTOBER, 1897.

An Act to amend the Law relating to the Partition of Estates.

WHEREAS it is expedient to amend the law relating to the Partition of Estates;

And whereas the sanction of the Governor-General of India has been obtained, under section 5 of the Indian Councils Act, 1892,* to the provisions contained in section 12 of this Act amending the Code of Civil Procedure;†

It is hereby enacted as follows:-

CHAPTER I.

PRELIMINARY.

Short title, extent, and commencement.

1. (1) This Act may be called the Estates Partition Act, 1897;

- (2) It extends to the territories for the time being under the administration of the Lieutenant-Governor of Bengal; and
- (3) It shall come into force on the day on which it is first published in the Calcutta Gasette after having received the assent of the Governor-General.

Repeal and savings.

2. (1) On and from that day the Estates
Partition Act, 1876,‡ shall be repealed. But—

- (a) this repeal shall not affect the previous operation of the said Act, or anything duly done or suffered thereunder, or any fine incurred thereunder;
- (b) where, in any pending case, an order under section 63 of the said Act was made before the said day, the subsequent proceedings shall, unless all the proprietors request otherwise, be carried on under the said Act, as if this Act had not been passed;
- (c) subject to clause (b) of this section, all pending proceedings which have been commenced under the said Estates Partition Act, 1876,‡ before the said day, shall be carried on under this Act, save that, where, in any case, the Collector has, before that day, directed that an application for partition be admitted, section 11 of the said Estates Partition Act, 1876,‡ shall apply instead of clauses (a) and (b) of section 11 of this Act.

^{*} Stat. 55 & 56 Vict., c. 14. † Act V. of 1908.

Ben. Act VIII. of 1876 (since repealed by s. 2 of this Act).

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(2) Any enactment or document referring to the said Estates

Partition Act, 1876,* or to any enactment repealed hereby, shall, so far as may be, and subject to sub-section (1) of this section, be construed to refer to this Act, or to the corresponding portion thereof.

Definitions.

- 3. In this Act, unless there be something repugnant in the subject or context,—
- (i) "Board" means the Board of Revenue for the territories for the time being under the administration of the Lieutenant-Governor;
- (ii) "Collector" means the Collector of the district on the revenue-roll of which an estate which is under partition, or which it is proposed to bring under partition, is borne, and includes—
 - (a) any officer whom the Board generally vests (as it is hereby empowered to do) with the powers of a Collector under this Act, and to whom the Collector has, with the sanction of the Commissioner, delegated (as he is hereby empowered to do) any of his functions in respect of the partition of an estate, and
 - (b) any officer whom the Board specially vests (as it is hereby empowered to do) with the powers of a Collector for the purpose of any partition under this Act;
- (iii) "Commissioner" means the Commissioner of Revenue to whom the Collector engaged in making a partition is subordinate;
- (iv) "Deputy Collector" includes any Assistant Collector,
 Deputy Collector, or Sub-Deputy Collector whom the
 Collector may appoint (as he is hereby empowered to
 do) to effect a partition under this Act, or to conduct
 any of the proceedings connected with such partition;
- (v) "proprietor" includes every person who is in possession of any estate under partition, or any portion of such an estate, or of any interest in any such estate, or in any part of such an estate, as owner thereof, whether or not such person is a recorded proprietor of the estate;
- (vi) "recorded proprietor" means a person whose name is registered on the Collector's General Register of revenue-paying land as proprietor of an estate, or of any share or interest therein;
- (vii) the words "tenure," "permanent tenure," "holding," and "tenant," have the meanings attached to them in the Bengal Tenancy Act, 1885;†

^{*} Ben, Act VIII. ol 1876 (since repealed by s. 2 of this Act.) † Act VIII. of 1885.

(viii) "applicant" means any person who has applied to the Collector under the provisions of this Act for the separation, from a parent estate of land representing the interest of such person in such estate, and for the assignment to him of such land as a separate estate liable for a demand of land-revenue distinct from that for which the parent estate is liable;

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- (ix) "estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue;
- (x) "joint undivided estate" means an estate of which two or more persons are proprietors;
- (xi) "parent estate" means an estate for the partition of which proceedings are in progress under this Act, or of which the partition has been effected under this Act:
- (xii) "separate estate" means any distinct estate which is formed by the partition of a parent estate under this Act, or for the formation of which, by such partition, proceedings are in progress under this Act;
- (xiii) "land" does not include houses or other buildings standing thereon;
- (xiv) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant; and "rent proble in kind" means, in money, the amount which would be determined as the rent if a commutation were made under section 40, sub-section (4) of the Bengal Tenancy Act, 1885;*
- (xv) "assets," when used with reference to land, means,-
 - (a) in the case of land held by cultivating raiyats—the rent payable by them;
 - (b) in the case of land which is occupied by a proprietor the rent which might reasonably be excepted to be payable by cultivating raiyats if the land were occupied by them;
 - (c) in the case of land held on a permanent tenure which was created by all the proprietors of the estate, and which by any law for the time being in force is protected against the purchaser at a sale for arrears of land-revenue—the rent payable by the holder of such tenure;
 - (d) in the case of land held on a tenure which,-

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- although not protected as aforesaid, is admitted by all the recorded proprietors of the estate to be a permanent tenure subject only to the payment of an amount of rent fixed in perpetuity, and
- is of such a nature that the rent thereof is not liable to be enhanced under any circumstances by the proprietors of the estate or any person deriving his title from such proprietors,—
- the rent payable by the holder of such tenure whether he be known as talukdar, patnidar, or mukarraridar, or by any other designation; and,
- (e) in the case of unoccupied land and land forming portion of a village site,—such amount, if any, as the Deputy Collector may determine with reference to all the circumstances of the case,

and includes-

- (f) all profits derived out of land by proprietors from trees, rights of pasturage, forest-rights, fisheries, and all other legal sources;
- (xvi) "assets," when used with reference to an estate, means the assets of all land included in the estate;
- (xvii) "Chapter" means a Chapter of this Act, and
- (xviii) "section" means a section of this Act.

CHAPTER II.

RIGHT TO CLAIM PARTITION,

- 4. (1) Subject to the provisions of this Act, every recorded Who entitled to claim parproprietor of a joint undivided estate who is in actual possession of the interest in respect of which he is so recorded shall be entitled to claim a partition of the said estate and the separation therefrom and assignment to him as a separate estate of land representing the interest of which he is in such possession.
- (2) Any two or more of such recorded proprietors may claim that land representing the interest of all such claimants be formed into one separate estate to be held by them as a joint undivided estate; and every provision of this Act which applies to an applicant for partition shall apply to any two or more persons making any such claim.
- 5. (1) If the interest of any recorded proprietor who is entitled
 Partition according to into claim partition is an undivided share in
 terest.

 an estate held in common tenancy, he shall
 be entitled to have assigned to him, as his separate estate, land of
 which the assets shall bear the same proportion to the assets of the

parent estate as his undivided share in the parent estate bears to the entire parent estate.

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- (2) If the interest of such recorded proprietor is the proprietary right over specific mauzas or lands forming part of the parent estate and held by him in severalty, he shall be entitled to have assigned to him as his separate estate the said mauzas or lands.
- (3) If the interest of such recorded proprietor consists of an undivided share held in common tenancy in specific mauzas or tracts forming part of the parent estate, but not extending over the whole area of the parent estate, he shall be entitled to have assigned to him as his separate estate land, situated within such specific mauzas or tracts, of which the assets shall bear the same proportion to the assets of such specific mauzas or tracts as his undivided share in such specific mauzas or tracts bears to the entire mauzas or tracts:

Provided that, if the interest of such recorded proprietor consists of such an undivided share in more than one mouza or tract, he shall not be entitled to have land assigned to him in every such mauza or tract; but the Collector may assign to him as his separate estate land situated in any one or more of the said mauzas or tracts, subject to the condition that the assets of such land are in proportion to the aggregate of the interests which he holds in all such mauzas or tracts.

- (4) If the interest of such recorded proprietor consists partly of land held in severalty, and partly of an undivided share either in the whole estate or in specific land held in common tenancy, he shall be entitled to have the portion of the common land falling by partition to his share added to the land held by him in severalty, and the estate thus formed shall be assigned to him as his separate estate, so that the assets shall bear the same proportion to the assets of the whole estate as his interest in all the land and undivided shares held by him bears to the aggregate interests of all the proprietors.
- (5) If the interest of such recorded proprietor is of more than one of the kinds specified in the preceding sub-sections, land shall be assigned to him as far as possible in accordance with the principles therein laid down.
- Separation of land held prietors of two or more estates not being under partition, any one or more of such proprietors of two or more estates, when the estates are not under partition.

 Toommon, and for the allotment of the proper shares of such land to each of their separate estates, the land-revenue of those estates remaining unaltered; and such application shall be dealt with as far as may be in accordance with the provisions of this Act.

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7. (1) Where the lands of an estate have been divided by private arrangement formally made and Partition of lands under agreed to by all the proprietors, and each Act where a partition has proprietor has, in pursuance of such arbeen made by private arrangement. rangement, taken possession of separate lands to be held in severalty as representing his interest in the estate, no partition of the estate shall be made under this Act except-

- (a) on the joint application of all the proprietors, or
- (b) in pursuance of a decree or order of a Civil Court.
- (2) No objection to the partition of an estate under this Act on the ground that the lands have been divided by private arrangement shall be admitted unless it is presented before the Collector records a proceeding under section 29 declaring the estate to be under partition.
- 8. Notwithstanding anything hereinbefore contained, no person Tenants for life not en. having a proprietary interest in an estate for the term of his life only shall be entitled titled to claim partition. to claim partition under this Act.

CHAPTER III.

SECURITY OF THE LAND-REVENUE.

Future partitions not to relieve land from liability for total land-revenue, unless made as provided in this Act.

9. No partition of an estate made after the commencement of this Act shall relieve any land from liability to the Government for the total demand of land-revenue assessed upon the estate of which the land forms part, unless the partition is made as herein provided.

- 10. Except as otherwise provided in this Act, the amount of land-revenue assessed on each separate Amount of land-revenue to be assessed on each sepaestate shall bear the same proportion to the whole amount of land-revenue for which the rate estate. parent estate was liable as the assets of such separate estate bear to the whole assets of the parent estate.
- 11. Subject to clauses (b) and (c) of section 2 of this Act, no partition of an estate shall be made, and no Restrictions on partition application for the partition of an estate of estate with reference to land-revenue. shall be admitted.
 - (a) if the annual amount of land-revenue for which the separate estate of the applicant would, after partition, be liable would not exceed ten rupees; or
 - (b) if, after separation of the applicant's interest, the annual amount of land-revenue for which the separate estate of the remaining proprietor or proprietors would be liable would not exceed five rupees; or

(c) if the Collector considers that for any reason any of the separate estates would be likely to prove an insufficient security for the payment of the land-revenue which would be separately charged upon it.

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- 12. (1) Any Civil Court which has made a decree for the partition of decree for tition or for the separate possession of a share of an undivided estate paying land-revenue to the Government may, notwithstanding anything in section 265 of the Code of Civil Procedure,* cause the decree to be executed in the manner prescribed in section 396 of that Code; and, if it does so, the joint and several liability of the entire estate for the whole of the land-revenue chargeable upon it shall not be prejudiced or affected.
- '(2) If any decree is sent to the Collector for execution under section 265 of the said Code, the execution thereof shall be subject to the restrictions imposed by section 11 of this Act.
- 13. The Collector may refuse to admit an application for the formation of land held in severalty into a Power to refuse partition separate estate, or to proceed with a partiwhich would result infortion undertaken on such an application, or mation of estates scattered so as to endanger the safety to admit or proceed with any other applicaof the land-revenue. tion for partition, if, in consequence of the land being intermingled with that held by other proprietors, the result of the partition would be to form out of a compact estate one or more estates consisting of scattered parcels of land in such a way as, in the opinion of the Collector, to endanger the safety of the land-revenue:

Provided as follows: -

- (a) a partition may be allowed in any such case if the recorded proprietors agree to such a distribution of land as would make the estates formed by the partition reasonably compact:
- (b) nothing in this section shall be deemed to prohibit the partition into separate estates of any parent estate which before such partition is not compact and consists only of scattered parcels of land.
- 14. No proprietor who has alienated any portion of his interInterest alienated with est in an estate, or in any specific land of special condition as to liability for land revenue dition that the transferee shall be liable in respect of the interest acquired by him to pay a specified amount or a specified share of the land-revenue for which the estate is liable (such amount or share being other than the proportionate amount or the proportionate share for which such transferred in-

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terest, if formed into a separate estate, would be liable under section 10), Act 5.

and no proprietor who has derived his title from any proprietor who has made any alienation as aforesaid,

shall be entitled to claim a separation under this Act of the interest which he continues to hold in the estate;

and no such transferee as aforesaid, and no person deriving his title from such a transferee, shall be entitled to claim a separation of the interest which has been so acquired:

Provided that a separation of such interests may be made if the parties concerned agree-

- (a) to waive the conditions of the contract as regards the proportion of land-revenue for which the transferor and transferee or their representatives respectively are liable, and
- (b) to hold the estates which may be allotted to them respectively by the partition subject to the payment of such amount of land-revenue as may be assessed upon them respectively under this Act.
- 15. If any estate has been declared to be under partition as provided in section 20, any arrears of land-Sale, for arrears of landrevenue accruing due thereon before the revenue, of an estate which is under partition, date specified in the notice issued under section 94 may be realized by sale of the estate as if the same had not been declared to be under partition; and, if such sale takes place, the partition proceedings shall cease from the date thereof, but shall be revived if the sale is set aside.
- 16. Nothing contained in section 15 shall be deemed to affect the provisions of section 10, section 11, Sale, for arrears of landsection 12, section 13, or section 14 of Act revenue, of share in an estate which is under parti-XI. of 1859 (an act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency), or any similar law for the time being in force, in respect to the opening of separate accounts for different shares in an estate and the protection afforded to such shares thereby:

Provided that, if any share in any estate is sold for its own arrears of land revenue while such estate is under partition in accordance with the provisions of this Act, such share shall be sold subject to the partition proceedings, which shall proceed as if no such sale had taken place; and the purchaser of the share sold may, from the date of such sale, exercise all the rights which the proprietor, whose share he has purchased, might have exercised. and shall be subject to all the liablities to which such proprietor would have been subject in respect of the partition proceedings.

CHAPTER IV.

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INITIATION AND DISCONTINUANCE OF PARTITION PROCEEDINGS.

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- 17. Every application for partition shall be made in writing Application for partition to the Collector of the district on the revenueroll of which the estate is borne, and shall how to be made. be presented by the applicant or by his duly authorized agent.
- Application to be signed and to contain certain partiulars.

18. Every such application shall be signed by the applicant or by his duly authorized agent, and shall contain the following particulars, so far as they are known to or can be ascertained by him. namely:-

- (a) the name of the parent estate;
- (b) the number under which such estate is borne on the revenue-roll, and the land-revenue demand for which it is liable;
- (c) the number under which such estate is borne on the Collector's General Register of revenue-paying lands;
- (d) the name and address of every proprietor, whether recorded or unrecorded, of such estate, the name and address of every proprietor of any other estate holding land in common with the proprietors of the parent e-tate, and the name of the post office of the area within which each of the said proprietors resides;
- (e) the character and extent of the interest of which each proprietor of the parent estate is in possession;
- (f) a specification of any land held by proprietors of the parent estate in common with proprietors of other estates, and of the right of such proprietors respectively in such land, and
- (g) such further particulars, if any, as may be prescribed by rules made by the Board.
- 19. (1) Every such application shall, subject to the provisions Application to be accompanied by copy of rent-roll

and by specification of previous measurements and record-of-rights.

of sub-section (4) of this section, be accompanied by a copy of the rent-roll of the estate, and by a specification referring to the papers of every measurement and record-of-rights which has respectively been made of, and

prepared for, the state by any officer appointed in that behalf by the Government or other competent authority, and of which the person verifying the application under sub-section (2) has knowledge.

(2) The said application, rent-roll, and specification shall be verified at the foot of the application by the applicant, duly authorized agent having personal knowledge, of the facts stated therein, in the manner following, or to the like effect:—

- "I, A. B., declare that the particulars contained in this application and in the rent-roll and specification accompanying it are correct to the best of my knowledge and belief."
- (3) If the said application, rent-roll, or specification contains any entry which the person making the verification knows or believes to be false, or does not believe to be true, such person shall be liable to be punished in the same manner as if he gave false evidence.
- (4) If the person presenting the application is unable to produce a rent-roll as required by sub-section (1) of this section, he shall state the reason of such inability, and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll; and the Collector may, if he thinks fit, require such person to produce such rent-roll.
- 20. If any such application does not in the opinion of the Col
 Procedure if application lector fulfil the requirements of the foregoing sections of this Chapter, he may either reject it or return it for amendment.
- 21. If in the opinion of the Collector the application fulfils the Notification and notice said requirements and if there appears to him to be no objection to making the partition, he shall—
 - (a) publish a notification of the application in the manner prescribed by section 104, and also by causing copies to be posted up at the Court of the Judge of the district and at the Court of every Munsif and Sub Divisional Officer within whose jurisdiction, and at every police-station within the jurisdiction of which, any land appertaining to the estate is known to be situated;
 - (b) by such notification invite any person claiming any proprietary right in the estate, who may object to the partition, to state his objection, either in person or by duly authorized agent on or before a day to be specified in the notification, not being less than thirty or more than sixty days from the date of the publication of the hotification on the estate; and
 - (c) serve a notice of the application on such of the recorded proprietors of the estate as have not joined in the application, on any unrecorded proprietor who has been named in the application, and on every proprietor of any other estate who holds land in common with the proprietors of the estate to which the application relates.
- 22. If any person claiming a proprietary right as aforesaid Power to reject applica. states an objection to the partition on or tion on receipt of objection. before the day specified in the notification published under section 21, or at any subsequent time if it shall

then seem fit to the Collector to admit such objection, and the 1897. Collector, on consideration of the objection, is of opinion that Act 5. there is good and sufficient reason for rejecting the application, he may reject the same, and, if he does so, shall record the grounds of such rejection.

- 23. If any such objection raises any question of right or title or of extent of interest as between any ap-Procedure when objecplicant and any other person claiming to be tion raises any question of right or title, or of extent a proprietor of the parent estate, and if it of interest. appears to the Collector that such question has not been already determined by a Court of competent jurisdiction, the Collector may hold such inquiry into the objection as he may deem necessary, and, if he be satisfied that the applicant is in possession of the extent of the interest for the separation of which he has applied, may, instead of rejecting the application as provided in section 22,-
 - (a) direct that the partition-proceedings shall proceed for the purpose of forming and assigning to the applicant a separate estate in accordance with the extent of interest claimed by him in the parent estate; or
 - (b) direct that such proceedings be postponed for four
- 24. At the expiration of the said four months, the Collector shall resume the proceedings, unless the Resumption of proceedings after postponement. person who has made the objection or some other person-
 - (a) has obtained an order from a Civil Court directing that such proceedings be stayed, or
 - (b) shows that a suit has been instituted before a Civil Court to try some question of such a nature as to lead the Collector to think the proceedings ought to be stayed until the question has been finally decided, or until the proceedings in such Court in respect thereof shall have terminated.

Suits instituted after four months not to affect or stay proceedings for partition.

25. No suit instituted in a Civil Court after the lapse of four months after the Collector has-

- (a) made a direction under clause (a) or clause (b) of section 23; or
- (b) recorded a proceeding under section 29,
- by any person claiming any right or title in or to a parent estate, shall avail to affect or stay the progress of any proceedings which may have been taken under this Act for the partition of the estate,

Decree made while partition-proceedings are in progress.

26. (1) Every decree affecting a parent estate made by a Civil Court after the estate has been declared under section 29 to be under partition, but before the date specified in the notice served under section 94,—

- (a) shall be made in recognition of the proceedings in progress under this Act for the partition of the estate,
- (b) shall be framed in such manner that the decree may be applied to, and carried out in reference to, the separate estates which the Collector, in his proceeding recorded under section 29, has ordered to be formed out of the parent estate.
- (a) If the effect of any such decree be to declare any person or body of persons to be entitled to any extent of interest in the parent estate in excess of the extent of interest which the Collector, in the said proceeding, has declared to be held by such person or body of persons, the decree shall specify, separately in respect of every proprietor or body of proprietors, of whose interests the Collector has separately specified the extent in the said proceeding, the proportion of such excess which such person or body of persons is entitled to recover from every such proprietor or body of proprietors;

and every person or body of persons so entitled to recover any extent of interest from any such proprietor or body of proprietors shall, for the purposes of the partition-proceedings, be deemed to have the same rights, and to be subject to the same liabilities, as a person who has acquired such extent of interest from a proprietor or body of proprietors by private purchase after an estate has been brought under partition under section 29, and on the date on which the decree was passed;

and such person or body of persons may apply, as in this Act provided, for the separation and assignment to him or them of the lands representing the extent of interest so acquired;

and, notwithstanding anything contained in section 11, such application shall be dealt with as provided in section 30;

and the lands thereupon assigned to the said person or body of persons shall be amalgamated with his or their separate estate.

- 27. (1) Every decree affecting a parent estate made by a Civil Court after the date specified in the notice Decree made after partition-proceedings completed. served under section 94, in a suit which was instituted as mentioned in section 25,—
 - (a) shall be made in recognition of the partition-proceedings,
 - (b) shall be framed so as to give effect to the division of the parent estate into separate estates which has been ordered by the Collector, and so as not to disturb such division.

(2) If the effect of any such decree be to declare any person or (1897. body of persons to have been entitled to any extent of interest in the parent estate in excess of the extent of interest which is represented by the separate estate assigned to such person or body of persons by the Collector in the partition-proceedings, the decree shall specify, separately in respect of the proprietor or joint proprietors of every separate estate formed by the partition, the proportion of such excess of interest which such person or body of persons is entitled to recover from such proprietor or joint proprie-

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and every person or body of persons so entitled to recover any extent of interest from the proprietor or joint proprietors of a separate estate shall be entitled to recover such extent of interest out of the separate estate which has been assigned to such proprietor or joint proprietors, and out of such separate estate only;

and the decree shall be executed by placing the person or persons so entitled in the position of a recorded joint proprietor or recorded joint proprietors of such separate state, holding the same as a joint undivided estate in common tenancy with the proprietor or joint proprietors to whom such separate estate was assigned by the Collector in the partition-proceedings, the extent of the interest of the joint proprietors respectively in such estate being such as 18 declared in the decree.

Power of Civil Court to order partition on application being made to Collec-

- 28. (1) A Civil Court may at any time direct the Collector, upon an application being made to him in accordance with sections 17, 18, and 19,-
- (a) to assign to any person land representing a specified interest in any estate, or in any specified village or tract of land in an estate, to be held by such person as a separate estate; or
- (b) to divide off from any estate any specified land or villages, and to assign it or them to any person to be held as a separate estate:

Provided that no Civil Court shall in any such case—

- (i) specify the amount of land-revenue for which any separate estate which it may direct to be formed under the provisions of this section shall be liable, or
- (ii) direct the Collector to carry out a partition otherwise than in accordance with the provisions of this Act.
- (2) The Collector shall assess the land-revenue on every such separate estate in accordance with the provision of this Act.
- . 29. If no objection be made, within the time specified in the notification published under section 21, to Admission of application application for partition, or when all for partition, and procedure thereupon. objections have been disposed of, and if the

1897. Collector has no reason to believe that any obstacle exists to his making the partition as applied for,

he shall direct that the application be admitted, and shall record a proceeding—

- (a) declaring the estate to be under partition for the purpose of forming and assigning to the applicant a separate estate;
- (b) declaring the extent of interest in the parent estate which he finds to be held by the applicant or joint applicants, or, if more than one separate application for separation has been admitted, the extent of interest in the parent estate which he finds to be held by every separate applicant or body of joint applicants, respectively;
- (c) declaring the extent of interest which remains to any recorded proprietor or body of recorded proprietors who are not applicants;
- (d) ordering that land proportionate to the interest so declared to be held by each applicant or body of joint applicants, respectively, shall be formed into a separate estate to be assigned to such applicant or body of joint applicants; and
- (e) ordering that land proportionate to the interest so declared to remain to any recorded proprietor or body of recorded proprietors who are not applicants shall be left forming a separate estate;

and shall, at the same time, issue a notice to each of the proprietors by registered post letter informing him that the application for partition has been admitted, and that the partition will be proceeded with, and requiring him to register his name and address, and to appoint an agent to accept service of process, and to make any appearance or application, or do any act required or authorized to be made or done by a party to a partition under this Act.

- 30. (1) At any time after the Collector has recorded a pro-Subsequent application ceeding under section 29, and before the Deputy Collector has partitioned the land into separate estates under section 57, any recorded proprietor in the estate other than the original applicant may apply for the separation of his share.
- (2) The Collector may reject or admit any such application, and, if he admits it, may order either that proceedings for effecting such separation shall be carried on simultaneously with the previous proceedings, or that compliance with the application be postponed until such previous proceedings have been completed, and the shares separated in accordance therewith.

- (3) When the consideration of any application which has been postponed under sub-section (2) is resumed, the papers of the previous proceedings aforesaid may be used so far as they are applicable.
- 81. The Collector may refer any application for partition to

 Power of Collector to any Deputy Collector for the purpose of
 refer application for partition to Deputy Collector.

 making inquiries, and doing any other thing
 authorized or required by this chapter:

Provided that every order-

- (a) rejecting an application under section 22,
- (b) directing, under section 23, that partition-proceedings shall proceed or shall be postponed,
- (c) directing, under section 29, that an application for partition be admitted,
- (d) made under section 30, or
- (e) appointing a Deputy Collector under section 32,
- and every proceeding recorded under section 29, shall be made and recorded, respectively, by the Collector, and not by any Deputy Collector.
- 32. As soon as the Collector has declared an estate to be Power of Collector to appoint Deputy Collector to he may appoint a Deputy Collector to carry out partition.

 out the partition and all or any of the proceedings necessary thereto.
- 33. (1) If, at any time after an order has been passed for Power to strike partitioncase off the file on petition the recorded proprietors of the estate present a petition to the effect that they do not wish the partition to proceed, the Collector may, after such enquiry as he considers necessary, strike the partition-case off the file, and at the same time require the proprietors to pay all costs incurred in and about the partition.
- (2) Any such costs which have not already been levied as provided in section 37 shall be levied in proportion to the shares of the respective proprietors.
- 34. (1) If, at any time after an order has been passed Power of Commissioner for making a partition, it appears to the to strike partition-case off the file.

 Recovery of costs.

 Commissioner that any sufficient reason exists why the partition should not be proceeded with,

he may, on the report of the Collector or otherwise, after issuing a notice calling on the persons interested to show cause why the partition-case should not be struck off the file, and, after considering any objections which may be made, order the partition-case to be struck off the file.

1897. (2) All costs which have not already been levied as provided in section 37 shall thereupon be levied in proportion to the shares of the respective proprietors.

CHAPTER V.

ESTABLISHMENTS AND COSIS.

- 35. The Deputy Collector, with the approval of the Collector,

 Power to appoint estable and subject to any rules made in that
 lishments, and prescribe behalf by the Board, may appoint such
 scale of remuneration.

 persons as may be needed for the purposes
 of any proceedings under this Act, and prescribe the scale of their
 remuneration.
- 36. In any district or division in which partitions are so Power to appoint special numerous or extensive is to render neces-establishment. sary the appointment of a special establishment in the office of the Collector or of the Commissioner, the Collector or the Commissioner, as the case may be, with the previous sanction of the Board may appoint such establishment.
- 37. (1) As soon as possible after an estate has been declared

 Estimating and levy of to be under partition as provided in seccost of partition. tion 29, the Collector shall estimate the
 cost of making the partition; and the amount shall be levied from
 the proprietors in such instalments, and at such times, as may be
 fixed by rules made by the Board.
- (2) If the amount first estimated is found insufficient, supplementary estimates may be made from time to time, and the required amount may be levied as provided in sub-section (1).
- 38 The cost of making a partition shall be apportioned on Apportionment of cost of the proprietors of the several shares in partition.

 proportion to their shares:

Provided that, whenever it appears to the Collector that any partition-proceedings have been unnecessarily delayed, and the cost of the partition enhanced, by obstacles vexatiously put in the way of the completion of the proceedings by one or more of the proprietors, or by want of due diligence on the part of one or more of the proprietors in carrying out any requisition made upon him or them,

the Collector may direct that such portion of the cost as he may think proper, in excess of the amount proportionate to the share or shares of such proprietor or proprietors, shall be paid by him or them.

39. Whenever any local inquiry is held by the Deputy Collector or any other officer, in consequence lector to declare cost of local inquiry and by whom it is to be paid.

39. Whenever any local inquiry is held by the Deputy Collector or any other officer, in consequence of an objection raised by any person to any record of measurements, rent-roll, or other information which has been laid before the Deputy Collector.

the Deputy Collector may declare the cost which has been 1897. incurred by such inquiry, and may direct that the entire cost so Act 5. declared-

- (a) shall be paid by the person making the objection, or by any one of the proprietors; or
- (b) shall be paid, in such proportions as the Deputy Collector thinks fit, by the said person and the proprietors or any of them; or
- (c) shall be deemed to be a part of the cost of the partition.

On completion of partition, total cost to be declared, and account adjust-

- 40. (1) Upon the completion of a partition, the Collector shall make an order declaring the total cost thereof.
- (2) The account shall then be adjusted, either by returning to the proprietors any sums which they may have paid in excess of the total cost, or, if necessary, by levying from them, in the manner provided in section 108, any sums remaining due.
- 41. (1) Whenever it appears to the "Lieutenant-Governor*" that the work required to be done in connec-Power to direct that tion with partitions under this Act in any salary of Deputy Collector and cos of special estabdistrict is so great that it would, if concenlishment be recovered as trated in the hands of one or more Deputy part of costs of partitions. Collectors, fully occupy the time of such one or more Deputy Collectors, "he*" may make an order directing that the salary of such one or more Deputy Collectors, as the case may be, shall be recovered, from the propritors of estates under partition in such district, as part of the costs of such partitions,
- (2) For the purposes of sub-section (1), the salary of a Deputy Collector shall be deemed to be the amount of salary which is drawn by a Deputy Collector of the lowest grade.
- (3) Whenever it appears to the "Lieutenant-Governor" that the said work in any district is so great as to occupy a considerable portion, though not the whole, of the time of a Deputy Collector,
- or whenever a special establishment is appointed under section 36,

the "Lieutenant-Governor*" may direct that a portion of the salary of such Deputy Collector, or the whole of the cost of such special establishment, shall be recovered, from the proprietors of estates under partition in such district, as part of the costs of such partitions.

42. (1) The Lieutenant-Governor may direct that in any district a fund, to be called the "Estates Estates Partition Fund. Partition Fund," shall be formed, into which

^{*} In Behar and Orissa for the words "Lieutenant-Governor" substitute the word "Board" and for the word 'he" read the word 'it" In Bengal Presidency for the words "Lieutenant-Governor" read the words "Governor in Council of Fort William in Bengal"-vide B. & O. Act III. of 1916 and Act Vil. of 1912.

Act 5. all sums levied from the proprietors of estates in such district in respect of partitions of their estates shall be paid, and from which all costs of making partitions of estates in such district shall, except as provided in section 43, be defrayed.

- (2) When the formation of an Estates Partition Fund has been directed in any district, the charges leviable in that district from the proprietors of any estate under pertition may, notwithstanding anything contained in the foregoing sections of this chapter, be levied according to a general scale of fees to be fixed by the Board.
- (3) Such scale of fees shall be fixed, as nearly as may be, so that the receipts and expenditure of the said Fund shall balance one another, and shall be revised from time to time by the Board so as to secure compliance with this condition.
- (4) The said fees shall be apportioned, and the proportionate amount thereof due from any proprietor or proprietors may be increased, in the manner and under the circumstances mentioned in section 38.
- (5) The said fees shall be levied from the proprietors in such instalments, and at such times, as may be fixed in accordance with any rules which the Board may make in this behalf.
- (6) An abstract of the Estates Partition Fund of each district, made up to the end of each financial year, shall be published in the Calcutta Gazette, and posted up at the office of the Collector of the district.
- 43. (1) Whenever any Civil Court makes a decree awarding Order by Civil Court for payment by parties of costs of partition.

 payment by parties of costs of partition.

 partition of the estate, the Court shall, subject to the provisions of sections 38 and 39, at the same time direct either—
 - (a) that the party or parties who has or have withheld the right so decreed shall defray the whole of the costs of the partition, or the whole of the fees payable in respect of the partition under section 42, or
 - (b) that the said costs or fees shall be defrayed by all or any of the parties to the suit in which the decree was made, in such proportios as the Court may, upon a consideration of the particular circumstances of the case, deem equitable.
- (2) Copies of all orders passed under sub-section (1) shall be transmited to the Collector for his guidance, together with the precept which the Court issues to him requiring him to divide the estate; and the Collector shall levy the said costs or fees from the parties, in accordance with the order, in the same manner, and by the same means, as if the levy of such costs or fees had been ordered by himself.

CHAPTER VI.

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PROCEEDINGS UP TO THE DETERMINATION OF THE PARTITION.

44. Every Deputy Collector making a partition shall, as Powers of Deputy Col. regards the estate under partition, have, so lector in making a partition. far as they are applicable, all the powers exercisible by a Survey Officer under the Bengal Survey Act, 1875,* and by a Revenue Officer employed in preparing a record-of-rights under Chapter X of the Bengal Tenancy Act, 1885.†

Deputy Collector when to make survey, and prepare record of existing rents and assets.

45. As soon as the Collector has recorded a proceeding under section 29, declaring an estate to be under partition, the Deputy Collector shall, subject to the provisions of section 49, make a survey, and prepare a record of existing rents and other assets of all lands included in the estate

- 46. In making a survey and preparing a record of existing rents and other assets of land under section Particulars to be recorded. 45, the Deputy Collector shall ascertain and record the following particulars, namely:—
 - (a) the name of each propritor, landlord, and tenant of the estate, and of every owner of revenue-free land and occupier of rent-free land therein;
 - (b) the situation, area, and boundaries of the land owned or occupied by each of the said persons, and the character and extent of the interest held by each, and the area of all other land in the estate which is not held by tenants;
 - (c) the rent then payable for all rent-paying lands—
 - (i) as stated by the landlord,
 - (ii) as stated by the tenant, and
 - (iii) as taken by the Deputy Collector for the purposes of the partition; and
- (d) the assets, if any, of all other lands; and shall be guided by such rules as the Board may make under section 121, clause (1).
- 47. (1) When the Deputy Collector has made a survey, and prepared a record of existing rents and Attestation of survey-papers and record of existother assets of land, under section 45, he ing rents and assets. shall publish a notification, in a form to be prescribed by the Board, fixing a day on which he will be present in the village, or at a convenient place within limits of distance to be fixed by general or special order of the Board, for the purpose of attesting the survey papers and record of existing rents and other assets.

^{*} Ben. Act V. of 1875.—See supra.

- (2) On the date fixed by the notification, or on any other date to which the proceedings may be adjourned, the entries made in the record of existing rents and other assets under section 46, or such of them as the Board may, by rule, prescribe, shall be read out, and corrected or added to as may appear necessary, in the presence of such of the interested persons as are in attendance.
- (3) If the correctness of any entry is disputed, the Deputy Collector shall note the statements of such of the persons aforesaid as are interested in the disputed entry, and shall, after making such local enquiry, if any, as he thinks fit, pass a summary order declaring what entry shall be accepted for the purposes of the partition.
- (4) If the correctness of any measurement is called in question, and a fresh measurement is demanded, the Deputy Collector may require the costs of the re-measurement to be deposited.
- (5) If the re-measurement shows the original measurement to have been inaccurate, the amount deposited shall be refunded to the objector.
- 48. When the survey-papers and the record of existing rents Publication of survey- and other assets have been attested as papers and record of existing rents and assets provided in section 47, the Deputy Collection or shall cause a copy thereof to be locally published in such manner, and for such period, as the Board may, by rule, prescribe, and there shall be furnished to each landlord and tenant a copy of such of the entries relating to his estate, tenure, or holding, as the case may be, as the Board may, by rule, prescribe.

Power of Deputy Collector to accept previous survey, record-of-rights, measurements, or rent-rolls instead of making a new survey and a record of existing rents and assets.

49. If, at any time, a survey of the estate under partition or any part thereof has been made, or a record-of-rights prepared by an officer appointed in that behalf under the orders of the Government

if any measurement papers and rent-rolls are filed under section 19, or at any time before a survey has been begun under section 45, and if the correctness of such measurement-papers and rent-rolls is admitted in writing by all the proprietors, and is verified by the Deputy Collector after testing on the spot, and if the Deputy Collector is satisfied that the land-revenue would not be endangered,

the Deputy Collector may, unless the Collector otherwise directs, and after making any correction which may appear necessary, accept the papers of such survey or the said record-of-rights, measurement papers, or rent-rolls, instead of making a new survey, and preparing a record of existing rents and other assets, under section 45.

Record of order fixing published, or any documents referred to in section 48 have been day for determining partition and service of notices. Collector shall record an order stating that such documents have been adopted for the purposes of the partition, and shall—

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- (a) fix a day on which to determine the partition of the lands into the several separate estates.
- (b) publish a notification calling on all the proprietors to be present on the day so fixed, such day being not less than thirty, or more than sixty, days after the publication of the notification in his office, and at the same time serve a notice on each of the proprietors to the same effect, and
- (c) serve a similar notice on the proprietors of each of the adjoining estates, inviting them to appear and file their objections, if any, if they dispute the possession of any land of the estate under partition.

CHAPTER VII.

PARTITION BY AMICABLE ARRANGEMENT, OR BY ARBITRATION.

- 51. (1) If all the recorded proprietors present, on or before Power to allow partition to be made by proprietors themselves, or by arbitrators. the day fixed under section 50, a petition requesting to be allowed to make the partition on the basis of the papers adopted by the Deputy Collector under Chapter VI.—
 - (a) privately among themselves, or
 - (b) by arbitration,

the Deputy Collector may grant the request.

- (2) If, after such request has been granted, the proprietors or the arbitrators fail to make the partition within such time as may be fixed by the Deputy Collector in that behalf, the Deputy Collector shall make the partition himself.
- 52. When a partition has been referred to arbitration, the Procedure on reference proceedings shall, except as hereinafter to arbitration. otherwise expressly provided, be conducted in accordance with the provisions of sections 506 to 522 (both inclusive) of the Code of Civil Procedure,* so far as they are applicable.
- 53. (1) The arbitrator or arbitrators shall, within a period to 'Arbitrators to deliver a be fixed by the Deputy Collector, which partition-paper. period may be further extended by him.

- deliver to the Deputy Collector a full and complete paper of partition, in such form as the Board may, by rule, prescribe.
 - (2) If default is made in complying with sub-section (1), the Deputy Collector may withdraw the case from arbitration, and may make the partition himself.
 - 54. (1) The arbitrator or arbitrators, on delivering the paper of Remuneration of arbi- partition as aforesaid, shall be entitled to trators. reasonable fees for his or their services.
 - (2) The amount of such fees shall be fixed, with the approval of the Commissioner, by the Deputy Collector who made the reference to arbitration, and shall be deemed to form part of the costs of making the partition.
 - 55. Every partition made under this chapter by proprietors,

 Approval of Deputy Collector ard other authorities or by an arbitrator or arbitrators, shall be subject to the approval of the Collector and the confirmation of the Commissioner:

Provided that no such partition shall be disallowed except—

- (a) on the ground of fraud, or
- (b) on the ground that the partition cannot be confirmed without endangering the safety of the land-revenue.
- 56. When a partition has been made under this chapter, the

 Assessment of land revelland-revenue on each separate estate into

 which the parent estate is divided by such

 partition shall be assessed by the Collector in the manner pre
 scribed by section 10.

CHAPTER VIII.

MAKING OF PARTITIONS BY THE DEPUTY COLLECTOR, AND AP-PROVAL THEREOF BY THE COLLECTOR.

- 57. (1) If no petition is presented under section 51, the De-Procedure where no peputy Collector shall, on the day fixed under tition presented under section 50, or on any subsequent day or days to which the hearing may be postponed by notice posted at his office,—
 - (i) consult all proprietors who are present, and
 - (ii) hear and, after such enquiry as he may consider necessary, dispose of any objections which they may urge.
- (2) The Deputy Collector shall then proceed to determine how the lands of the parent estate shall be partitioned into the separate estates, and all matters arising out of such partition, and shall cause to be prepared—
 - (a) a paper of partition in a form prescribed by rules made by the Board, specifying in detail—

- (1) the lands which he has included in each separate 1897.
 estate, and the area of such lands,
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- (ii) the rental of such lands and the other assets, if any, of each separate estate,
- (iii) the name or names of the recorded proprietor or proprietors of each separate estate,
- (iv) any stipulations which may have been made regarding places of worship, tanks, or other matters mentioned in Chapter IX., and
- (v) the amount of land-revenue to be assessed on each separate estate in the manner prescribed by section 10; and
- (b) a map showing the lands which fall within each separate estate and the boundaries of such lands.
- (3) In making the partition the Deputy Collector shall be guided by the provisions of Chapter IX., and shall make the partition in the manner which, in his opinion, is on the whole most in accordance with those provisions, and most equitable and convenient to all parties concerned.
- 58. (1) The partition, as made under this chapter, shall be Submission of case to submitted for the sanction of the Collector; his duties.

 Submission of case to submitted for the sanction of the Collector, and he shall by notice fix a day for the consideration of the same.
- (2) Every such notice shall be served on the proprietors and shall be published in the manner prescribed by section 104.
- (3) The day fixed by the said notice shall be not less than fifteen days after the publication of the notice at the Collector's office.
- (4) After hearing and disposing of any objection which may be preferred, the Collector shall pass such orders as he may think proper—
 - (a) approving the partition, with or without amendments;
 - (b) making a new partition; or
 - (c) returning the papers to the Deputy Collector for amendment of the partition, or for making a new partition with such directions as to the Collector may seem fit in regard to the issue of a notice to appear to the proprietors or any of them who are specially interested.
- (5) If the papers are returned to the Deputy Collector, the Collector shall, on their re-submission, proceed again to consider the partition as provided in the foregoing sub-section of this section.

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Duties of Deputy Collec. tor when partition has been approved by Collector, or when Collector, makes a new partition.

59. (1) When the partition has been approved by the Collector, the Deputy Collector shall, after making such alterations as may be necessary in the partition-paper or map, or preparing a new partition-paper or map, in accordance with the orders passed by the Collector,—

- (a) cause to be prepared a separate extract of the portion of the partition-paper which relates to each separate estate;
- (b) cause to be tendered to any recorded proprietor of a separate estate, or any anthorized agent of such proprietor who may be in attendance at the Deputy Collector's office, the extract which relates to such separate estate, and
- (c) publish a notification at his office calling upon every proprietor to whom, or to whose agent ar extract from the partition-paper has not been tendered as aforesaid, to take out of the Deputy Collector's office the extract of the portion of the partition-paper relating to his separate estate
- (2) If the circumstances of the partition so require, an extract of the map prepared by the Deputy Collector or a copy of such map shall be annexed to every separate extract from the partitionpaper mentioned in the sub-section (1).
- (3) The Deputy Collector shall also proceed in the manner hereinbefore provided when the Collector makes a new partition.
- 60. No proprietor who has failed to appear before the Deputy Collector in person, or by agent, on a day Proprietor not appearing fixed under section 50 or section 57 for the on fixed day not entitled to make objection. partition of the lands into the several separate estates, and no proprietor who has failed so to appear before the Collector on a day fixed under section 58, shall, unless he shows sufficient cause for such failure, be entitled, at any subsequent time, to make any objection to the orders which may be passed on such days respectively.
- 61. When a partition has been approved by the Collector, or when he has made a new partition, and after Submission of the papers the tender of extracts and the publication of to the Commissioner after a notification as provided in section 50, the approval of the partition by the Collector. Collector-

shall cause a notice to be served on each of the recorded proprietors, stating that the papers will be submitted at once for confirmation of the partition by the Commissioner, and that any appeals or objections must be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days from the date of the service of the said notice;

and shall, after the issue of such' notice, forward to the Com- 1897 missioner all papers relating to the partition.

Act'5.

CHAPTER IX.

GENERAL PRINCIPLES FOR MAKING PARTITIONS.

Lands held in Common Tenancy.

- 62. Each separate estate shall be made as compact as is com-Separate estates to be patible with the primary object of making an equitable partition among the propriemade compact. tors, and with the provisions of this chapter.
- . 63. In selecting the villages or land to be assigned to each separate estate formed out of a parent estate Circumstances to be conwhich has been held in common tenancy, sidered in making partitions. the Collector shall take into consideration the advantages or disadvantages arising from -
 - (a) situation;
 - (b) the vicinity of roads, railways, or navigable rivers or canals:
 - (c) the nature and quality of the soil and produce;
 - (d) the quantity of cultivable and uncultivable waste land;
 - (e) the facilities for irrigation;
 - (f) the state of embankments and water-courses, and
 - (g) liability to accretion and diluvion;

and any other circumstances affecting the value of the land.

- 64. (1) If a dwelling-house belonging to one proprietor is situated on any land which it may be neces-Rights when dwellingsary to include in the separate estate of house belonging to one proanother proprietor, the owner of the house prietor is situated on land to be allotted to another may retain occupation thereof, with the proprietor buildings and grounds immediately attached thereto, upon agreeing to pay rent annually in perpetuity for the land occupied by the house, buildings, and grounds to the proprietor of the separate estate in which such land is included
- (2) The limits of the land so occupied and the rent to be paid for it shall be fixed by the Deputy Collector, and shall be stated in the paper of partition.
- (3) In every such case a define pathway shall, as far as possible, be secured to the owner of the house, leading from the house to some portion of the separate estate allotted to him.
- 65. Whenever the Depury Collector thinks fit, he may apply Power to apply section the provisions of section 64 to gardens, orchards, land planted with bamboos, and any 64 to gardens, etc.

other land which, in his opinion, is of special value to the proprietor in whose occupation it is found to be, in consequence of improvements made by such proprietor, or of the particular use to which such land is put.

- Rent for land fixed under section 64 or section 65 shall be deemed, for the purposes of the partition, be the assets of the land.

 Collector under section 64 or section 65 shall be deemed, for the purposes of the partition, to be the assets of such land.
- 67. When the dwelling-house of one proprietor, with the Redemption of rent fixed buildings and grounds immediately attached under section 64. thereto, has been included in the separate estate of another proprietor, and the rent to be paid in perpetuity for the land occupied thereby has been fixed by the Deputy Collector, and stated in the paper of partition, the first-mentioned-proprietor may apply to the Deputy Collector for permission to redeem the rent so fixed, and the Deputy Collector shall give such permission unless he is of opinion that the redemption would endanger the safety of the land-revenue, for the payment of which the separate estate in which such dwelling-house, buildings, and grounds have been included will be liable.
- 68. (1) If the Deputy Collector gives permission as aforesaid,

 Amount payable in redemption of rent he shall certify the amount payable by the applicant in redemption of the rent.
- (2) Such amount shall be ten per centum above the sum which would be required to produce, in interest at four per centum per annum an annual sum equal to the said rent.
- 69. The amount certified under section 68 may be paid to the Such amount when payable.

 Deputy Collector at any time before, but not after, possession is, under section 94, given to the several proprietors of the separat: estates allotted to them.

Notice of payment to be given, and land to be held rent-free.

- 70. On receipt of such payment, the Deputy Collector shall give notice to the proprietor in whose separate estate the land is situated—
- (a) that such payment has been made;
- (b) that the sum will be paid to him or to his authorized agent on application, and
- (c) that, from the date on which possession as aforesaid is given, the proprietor who has redeemed the rent of such land will be entitled to hold the land as a rent-free tenure secured against the proprietor to whom the notice is given, and against any auction-purchaser at a sale for arrears of revenue, including the Government;

and from such date the land shall be so held as a rent-free tenure.

71. The Deputy Collector shall at the same time give notice to Collector to register the collector of the district of the creation of such tenure, and the Collector shall thereupon cause such tenure to be specially registered in the manner provided by section 42 of Act XI. of 1859 (an Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the sengal Presidency), or by any similar law for the time being in force.

72. When two or more of the separate estates consist of the Drawing of lots for equal same proportions of the parent estate, the Deputy Collector may, if he thinks proper, direct the parties entitled thereto respectively to draw lots in his presence for the equal separate estates which have been formed by assignment of land—

unless the recorded proprietors of the equal shares agree among themselves as to the allotment of the equal separate estates, and present a petition to that effect, or

unless, for any other reason, the Deputy Collector, with the sanction of the Collector, thinks proper to assign the equal separate estates to the proprietors of the equal shares without causing lots to be drawn.

73. (1) When the aggregate of two or more shares equals one Order and method of other share, or equals the aggregate of two or more shares equals one other share, or equals one other share, or equals the aggregate of two or more other shares.

with the sanction of the Collector, may cause such aggregate shares to be treated as one share for the purpose of determining, by lots as aforesaid, which portion of the parent estate shall be assigned to each proprietor as his separate estate;

and may decide which shares shall be formed into one aggregate share for the purpose of causing such lots to be drawn;

and may cause lots to be drawn in like manner as often as he thinks proper for such purpose.

(2) After lots have been drawn once (or more than once if necessary) as aforesaid, the Deputy Collector shall proceed to divide the portion of the parent estate, which has fallen by lot to each aggregate share, among the proprietors of the different shares which were formed into such aggregate share for the purpose of drawing lots, and shall assign to every such proprietor his separate estate within such portion in such position as the Deputy Collector may think proper.

Illustrations.

1.—The partition of a parent estate is being made into the following shares:—

8 annas.

3 annas.

4 annas

I anna.

For the purposes of drawing lots, the 4-annas, 3-annas, and 1-anna shares may be taken together, and considered to be an aggregate 8-annas share,

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The Deputy Collector will divide the parent estate into two halves of equal value, and will then cause lots to be drawn, in order to determine which of the two halves shall be assigned to the proprietor of the integral 8-annas share, and which shall be divided among the proprietors of the 4-annas, 3-annas, and 1-anna shares.

Subsequently, if necessary, the Deputy Collector may again cause lots to be drawn by the proprietor of the 4-annas share on the one hand and the proprietors on the other hand of the aggregate share made up by taking together the 3-annas share and the 1-anna share.

II.—The partition is being made of a parent estate into the following shares:—

6 annas. 3 annas. 4 annas. 2 annas.

Two tracts in the estate may first be marked off, the value of each being equivalent to a 6-annas share; and then, for the purpose of drawing lots in respect of the assignment of thess two tracts, the 4-annas share and the 2-annas share may be taken together as an aggregate 6-annas share, and lots may be drawn between the proprietor of the aggregate 6 annas share so formed on the one hand and the proprietor of the integral 6-annas share on the other

One of the two 6-annas tracts having thus been finally assigned to the proprietor of the integral 6-annas share, the Deputy Collector will proceed to assign the rest of the estate among the remaining shares; and he may again, for the purpose of causing lots to be drawn, mark off two tracts, the value of each of which shall be equivalent to 5-annas of the parent estate, and may cause lots to be drawn for these two tracts between the proprietors of the 4-annas share and the 1-anna share taken together as an aggregate 5-annas share on the one hand and the proprietors of the 3-annas share and the 2-annas share taken together as another 5-annas share on the other,

Finally, their separate estates will be assigned to the proprietors of the 4-annas share and of the 1-anna share respectively within the tract which fell to them jointly by lot; and their separate estates will be assigned to the proprietors of the 3-annas share and of the 2-annas share respectively within the tract which fell to them jointly by lot.

Deputy Collector may require proprietors to attend or appoint agent for the purpose of drawing lots.

of drawing lots:

74. The Deputy Collector may by notice require any proprietor, in respect of whose share lots are to be drawn as provided in section 72 or section 73, to attend at the office of the Deputy Collector in person, or by authorized agent, at a time to be fixed by the Deputy Collector, for the purpose

and may similary require the proprietors, of any shares which he may have ordered to be formed into an aggregate share for the purpose of drawing lots, jointly to appoint an agent to draw lots on their joint behalf; and, if, at the time fixed for drawing such lots, such proprietors have failed to agree to any such joint appointment, or fail to cause the attendance of any agent authorized to act jointly for all such proprietors, all such proprietors shall be deemed to have failed to comply with the Deputy Collector's requistion.

In default, Deputy Collector may appoint a person to draw lots,

75. If any proprietor or proprietors fail to comply with a requisition of the Deputy Collector under section 74, the Deputy Collector may appoint a person to draw lots on behalf of such proprietor or proprietors.

Lands held in Severalty.

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- 76. (1) When the lands of an estate have been divided by Partition according to separate possession, and apportionment of land-revenue. proprietor is, in pursuance of such arrangement, in possession of separate lands held in severally as representing his interest in the estate, the joint application presented under section 7 may be to the effect—
 - (a) that a partition of the estate be made by assigning to each proprietor, or to two or more proprietors jointly, as his or their separate estate or estates, the lands of which they are in separate possession in pursuance of such arrangement, and
 - (b) that each separate estate so formed be made liable for such portion of the entire land-revenue of the parent estate as was paid by the proprietor or proprietors thereof under the private arrangement aforesaid.
- (2) The Deputy Collector who is appointed to carry out the partition in accordance with such application shall satisfy himself that the assets of each separate estate which it is proposed to form will be sufficient to secure the payment of the annual amount of land-revenue for which it is proposed to make such separate estate liable.
- (3) If the Deputy Collector is not satisfied that the assets of each such separate estate will be sufficient as aforesaid, or that, with reference to the circumstances of the case, the partition of the land and the assessment of the land-revenue thereon may be made in the manner proposed without endangering the safety of the land-revenue, he shall reject the application, unless all the recorded proprietors agree that the land-revenue for which the parent estate is liable shall be apportioned among the separate estates so to be formed in such a manner that the safety of the total amount of the land-revenue shall not be endangered.
- 77. Whenever the Deputy Collector who is appointed to carry out a partition finds that, in pursuance of a Lands of which each proprietor is in possession to private arrangement formally made and be allotted to him. agreed to by all the proprietors of an estate. the proprietors respectively, or any of the proprietors, are in possession of separate parcels of land held in severalty as representing portions only of their respective interests in the parent estate, while other land of the parent estate is held in common tenancy between such proprietors, then, notwithstanding anything contained in section 7, a joint application shall not be required, and the Deputy Collector shall allot to the separate estate of each proprietor the land of which such proprietor is found to be in possession in severalty in accordance with such private arrangement.

Explanation.—Land held in the occupation of the several proprietors of an estate as sír, khamar, or nij-jote, or under any other
similar denomination, shall not be deemed to be land held in severalty as representing portions of their respective interests in the
parent estate within the meaning of this section, which applies only
to cases in which there has been a bona fide division, by private arrangement among the proprietors, of land held by tenants.

78. Notwithstanding anything in section 77, the Collector may

Collector may cause transfer of lands agreed to by
parties.

cause any transfer of land agreed to by the
parties to be made from the possession of
one proprietor to that of another.

Lands held in Common Tenancy and Lands held in Severalty.

- 79. Places of worship, burning-grounds, and burial grounds which have been held in common previous to the partition of an estate, and land of which the proceeds have been assigned by the proprietors jointly for religious, charitable, or public purposes, shall continue to be held in common unless the proprietors otherwise agree among themselves, in which case they shall state in writing the agreemen into which they have entered, and the Deputy Collector shall enter a note of the agreement in the paper of partition.
- 80. (1) Tanks, wells, water-courses, reservoirs, and embank-Tanks, wells, water-courments, shall be deemed to be attached to the land for the benefit of which they were originally made.
- (2) In cases in which, from the extent, situation, or construction of any such works, it is found necessary that they should remain the joint property of the proprietors of two or more separate estates, the paper of partition shall specify, as far as the circumstances admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

Splitting-up of tenure or holding, and apportionment of rent thereof.

81. (1) No tenure or holding thall be split up for the purposes of a partition unless it is reasonably necessary to do so in order to effect an equitable partition.

- (2) If a tenure or holding be split up as aforesaid, the total existing rent thereof, as ascertained under Chapter VI., shall not be altered, but shall be apportioned among the several parts into which the tenure or holding is divided.
- (3) When it is proposed to split up a tenure or holding, and apportion the rent thereof as aforesaid, the Deputy Collector shall cause a notice to be served on the tenants concerned, and, after hearing their objections, if any, may order that the tenure or holding be split up, and that the rent thereof be apportioned as aforesaid.

(4) The Deputy Collector shall notify such apportionment to 1897. the tenants concerned.

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82. When the Deputy Collector finds in a parent estate land which is claimed to be held rent-free, and for Land held rent-free not to which no rent is actually paid (whether the be divided except with consent of recorded proprietors. proprietors of the estate do or do not claim a right to receive rent from the land), he shall not make any division or assignment of such land among the separate estates, but shall specify in the partition-papers and proceedings that such land is left appertaining jointly to all the separate estates which are formed out of the parent estate, in the proportion which each separate estate bears to the parent estate:

Provided that such land or any part of it may be allotted among the different separate estates with the consent of all the proprietors of the parent estate.

- 83. (1) When the Deputy Collector finds in a parent estate any land which is held at a fixed rent on a patni Land held at fixed rent on permanent intermediate tenor other permanent intermediate tenure created by all the proprietors of the estate, or admitted by all the recorded proprietors to have been so created, he may either-
 - (a) assign such land and the assets thereof entirely to one or more of the separate estate formed out of the parent estate: or
 - (b) leave such land unassigned to any separate estate, and specify in the partition-paper and proceedings that the land is left appertaining jointly to all the separate estates which are formed out of the parent estate in the proportion which each separate estate bears to the parent estate.
- (2) In the event of such land being so left unassigned, the Deputy Collector shall assign to each separate estate such share of the rent of the tenure as bears the same proportion to the entire rent of the tenure as the sparate estate bears to the parent estate.
- (3) In dealing with a tenure under this section, the Deputy Collector shall take into consideration the extent of the land comprised in the tenure, and all other circumstances of the case.
- 84. When any land is held in common between the proprietors of two or more estates, one of which is under Land held in common bepartition in accordance with the provisions tween the proprietors of two or more estates how to be of this Act, the Deputy Collector shall first dealt with when one estate

allot to the estate under partition a portion is under partition. of such common land of which the assets are in proportion to the interest which the proprietors of such estate hold in the said common land;

and all the provisions of this Act in respect of the allotment, between the shareholders in one estate, of land which is held jointly by such shareholders, shall, as far as possible, apply to the allotment of the proportionate share of such common land to the estate under partition;

and, in respect of the service of notices, the hearing of objections and all other procedure in view to such allotment, the proprietors of the estate under partition, and all other proprietors of estates who have an interest in the said common land, shall be deemed to be joint proprietors of a parent estate consisting only of the land so held in common:

Provided that all costs of any division of lands so held in common between the proprietors of two or more estates shall be deemed to be costs of making the partition of the estate which is under partition, and shall be leviable, as provided by this Act, from the proprietors of such estate; and the proprietors of any other estate having an interest in such lands shall not be required to bear any portion of such costs.

When proprietors of other estates may be required to pay a portion of the costs of making a division under section 84

division by any proprietor of any estate other completion of such division, or by want of due diligence on the part of any such proprietor in carrying out any requisition made upon him,

the Collector may direct that such sum as he shall think fit shall be levied from every such proprietor who is responsible for such delay or additional cost;

and every sum so levied shall be taken in diminution of the amount payable, by the proprietors of the estate under partition, as costs of such partition

- 86. Every allotment made under section 84 shall be sub-Allotment made under mitted for the approval of the Collector, section 84 to be submitted who may confirm, amend, or reject the to the Collector. same, and, if he rejects it, may make, or direct to be made, another allotment.
- 87. When any allotment made under section 84 has been Land so allotted how to approved by the Collector, the land so be dealt with allotted shall be dealt with in every respect as if it were held in common tenancy by such of the proprietors of the estate under partition as were found to hold interests in the common land.

88. (1) If a dispute or doubt is found to exist as to whether Procedure when dispute or doubt exists as to whether any land forms part of a parent estate, the Deputy Collector shall, after due notice to the parties interested, enquire into the fact of possession, and shall report his conclusions to the Collector; and thereupon the Collector shall dispose of the matter as follows:—

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- (a) he may order that the partition-case be struck off the file if such an order appears to him advisable, and whether the possession of the disputed land is with the proprietors of the parent estate or otherwise; or
- (b) he may order that the partition shall proceed, and that the disputed land be treated as part of the estate under partition, if the possession of such land is with the proprietors of the parent estate, and the claim of the other parties to the right in such land appears to him untenable; or
- (c) he may order that the partition shall proceed, but that the disputed land shall not be treated as part of the estate under partition, if the possession of such land is with the other parties, and the claim of the proprietors of the parent estate to the right in such land appears to him untenable.

Provided as follows:-

- (i) if a claim to land alleged to be in dispute is filed after the Deputy Collector proceeds under section 57 to determine how the lands of the parent estate shall be partitioned into the separate estates, the claim shall not be enquired into under this section unless the delay on the part of the claimant is explained to the satisfaction of the Deputy Collector;
- (ii) no partition shall be made in any case mentioned in this section if such partition would involve the assignment, to any separate estate, of such a quantity of the disputed land that the removal of such land from such estate at any subsequent time would, in the opinion of the Collector endanger the safety of the land-revenue for which such estate would be liable after the partition.
- (a) If a partition-case is struck off the file under clause (a) of this section no fresh application for partition shall be admitted unless and until the applicant shows that the dispute or doubt aforesaid has been decided by a Court of competent jurisdiction, or has been amicably settled; but, if a fresh application is admitted, the proceedings shall be revived from the point at which they were interrupted.

Procedure when partition completed in pursuance of order under section 88, clause (b), and proprietor of an estate dispossessed of any land by decree.

89. If, after a partition has been completed in pursuance of an order passed by the Collector under section 88, clause (b), the proprietor of any separate estate is dispossessed, by a decree of a Court of competent jurisdiction, of any land which has been assigned to his estate by the partition.

the partition shall not be disturbed, but such proprietor shall be entitled to recover, from the proprietors of the other separate estates formed by the partition, such compensation as may be fair and equitable, having regard to the reduction in the proportionate value of his separate estate which is caused by such dispossession;

and such compensation may be recovered in a Court of competent jurisdiction from the proprietors of those separate estates on which a proportionate share of the total loss caused by the dispossession does not fall.

CHAPTER X.

PROCEDURE BEFORE THE COMMISSIONER UP TO THE COMPLETION OF A PARTITION.

90. (1) If it appears to the Commissioner that the proceedings of the Collector should be amended, Procedure if proceedings or if an appeal or objection is presented require amendment, or if within the time allowed by section 61, the appeal or objection pre-Commissioner shall by order, fix a day (not being less than thirty days from the date of such order) for hearing and disposing of the case, and shall cause notice of such day to be served through the Collector on all the parties.

- (2) On the day so fixed, or on any subsequent day to which the hearing of the case may extend or is postponed by a notice posted up in his own office, the Commissioner shall, after hearing and disposing of all appeals and objections, and calling for any further information which he may consider necessary, either confirm the partition as approved or made by the Collector, with or without amendments, or return the papers of the partition to the Collector for any amendments which the Commissioner may think proper to be made.
- (3) If the papers are returned to the Collector for amendment, the Collector shall proceed to make the required amendments, or to cause them to be made in the same manner as if he had himself passed such orders on a partition submitted to him for approval by a Deputy Collector, and shall thereafter return the papers to the Commissioner, who may then confirm the partition.
 - **91**. If it does not appear to the Commissioner that the proceedings of the Collector require amendment, Procedure in other cases. or if no appeal or objection is presented

within the time allowed by section 61, the Commissioner may proceed to consider the case without issuing any notice, and may confirm the partition as approved or made by the Collector.

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Commissioner may return the papers for amendment or enquiry as often as he thinks fit.

92. The Commissioner may, before confirming a partition, return the papers for amendment or enquiry as often as he thinks fit; and, as often as he so returns them the procedure prescribed in the foregoing sections of this chapter shall be applicable.

Procedure by Collector on receipt of Commissioner's order confirming, or Board's order sanctioning, a parti-

93. (1) After the expiration of less than sixty days from the date of the order of the Commissioner confirming a partition.

or if an appeal has been preferred to be Board, or if any proceedings in respect of the partition be pending before the Board, then, on receipt of the final order of the Board, if such order does not set aside but maintains with or without amendments, the partition as confirmed by the Commissioner,

the Collector shall cause to be published at his office, and at some conspicuous place in each of the estates separately constituted by the order of the Commissioner or the Board, as the case may be, a notice that the partition has been confirmed or sanctioned by the Commissioner or the Board, with or without amendments, as the case may be.

(2) If the partition as so confirmed or sanctioned involves any amendments which may conveniently be made on any extracts of the partition-paper, or on any maps which have been prepared and delivered to recorded proprietors under section 50, the Collector shall cause a notice to be served on every recorded proprietor whose estate is affected by such amendments, requiring him to produce such extracts and maps in order that such amendments may be noted on them;

and, if the alterations made in the partition as so confirmed or sanctioned be such as to make it desirable to prepare fresh extracts or maps as aforesaid, the Collector shall cause such fresh extracts or maps to be prepared, and shall cause notice to be served on each proprietor, declaring the extract and map, which was delivered under section 59, to be cancelled, and requiring him to take out of the Collector's office the fresh extract or map which has been prepared.

94. (1) The Collector shall then proceed to give the several possession of the separate proprietors Procedure as to giving possession separate estates allotted to them, and, if necessary, may require the assistance of the Magistrate in giving such possession;

1897. and shall cause to be served on every recorded proprietor of Act 5.

- (a) informing him that, from the date specified in such notice, the separate estate assigned to him, as described in the extract from the partition-paper prepared and delivered or tendered to him under section 59 or section 93, as the case may be, will be deemed to be separated from the parent state, and to be separately liable for the amount of land-revenue specified in the notice, and
- (b) calling upon him to enter into a separate engagement for the payment of such land-revenue.
- (2) The date specified in such notice shall be not more than three months after the proprietors have been given possession of their respective separate estates as provided in sub-section (1).
- Bach separate estate to be borne on the revenue-roll and General Register as separately liable for the land-revenue assessed upon it.

 General Register of the Collector as a distinct estate separately liable for the amount of land-revenue assessed upon it under this Act, and shall be so liable, whether or not the propretor has entered into a separate engagement for the payment of the amount of land-revenue so assessed upon the estate.
- 96. (1) The Collector may direct the erection of such boundary-marks as he thinks proper to distinguish the the lands of each separate estate; and the cost of such boundary-marks shall be deemed to be costs of the partition.
- (2) Boundary marks so erected shall be assigned to zemindars,

 Ben. Act V. of 1875.

 or to zemindars jointly with tenure-holders,
 for preservation, as provided in the third
 clause of section 29 or the Bengal Survey Act, 1875;* and, after
 they have been so assigned, the provisions of sections 19, 20, and
 52 to 57 (both inclusive) of the said Act* shall apply in the case of
 such boundary-marks.

CHAPTER XI.

MISCELLANEOUS.

97. For the purposes of any enquiry under this Act, the Deputy
Powers of Deputy Collector shall, in addition to the powers
specifically conferred upon him by this Act,
have the powers conferred by Chapters X.
and XIV. of the Code of Civil Proceduret

^{*} Ben. Act V. of 1875.—See supra. † Act V. of 1908.

for compelling the production of documents, and enforcing the 1897. attendance of witnesses.

Act 5.

- 98. The Deputy Collector, with the consent of all the parties General power to refer to concerned, may refer to arbitration any point arising in the course of a partition: and the provisions of sections 52, 53, and 54, shall, as far as possible, be applicable to such references
- 99. If any proprietor of an estate held in common tenancy, and brought under partition in accordance Saving of tenures, leases, with this Act, has given his share or a and encumbrances. portion thereof in pathi or other tenure, or on lease, or has created any other encumbrance thereon, such tenure, lease, or encumbrance shall hold good as regards the lands finally allotted to the share of such proprietor, and only as to such lands.

Illustration.

I .- A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patni tenure of the whole of his interest in the estate, enti ling B, as long as such estate is held in common tenancy, to collect one-fourth of the rent payable by every raivat on the estate; and

partition of the said estate is made under this Act, and certain specific lands are assigned to A as his separate estate:

B will become patnidar of the entire separate estate which has been assigned to A, and will be entitled to collect the whole of the rents from the rayats on that estate.

II .- A, a propietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patni tenure of one-half of his share in the estate, entitling B, as long as such estate is held in common tenancy, to collect one eighth of the rent payable by every raigat on the estate; and

partition of the estate is made under this Act, and certain specific lands are assigned to A as his separate estate:

B will become patnidar of one-half of A's separate estate, and will hold his patni in common tenancy with the half of A's interest which A has not given in pathi, so that B will be entitled to collect one-half of the rent payable by every raiyat on A's estate, and A will be entitled to collect the other half.

- 100. (1) If two or more estates come into the possession of one proprietor, or of the same body of pro-Uniting of estates. prietors, such proprietor or body of proprietors may, after being recorded as proprietors, apply to have the estates united, and to hold them as a single estate.
- (2) Every such application shall be made in writing to the Collector, and the Collector shall, if he sees no objection to doing so, comply with it not less than thirty days after the publication of a notification thereof, and shall then cause the necessary entries to be made in the records of his office, and report the case to the Commissioner.
- 101. If any separate estate created under this Act falls into arrear so as to necessitate a sale of the land If separate estate falls into for the discharge of the arrear at any time arrear, Collector to enquire into cause, and report to within six years from the date of the con-Commissioner. firmation or sanction of the partition by the

Commissioner or the Board, as the case may be,

the Collector shall, if possible, ascertain the cause of the estate having fallen into arrear, and shall enquire whether the same is due to any fradulent or erroneous allotment of the assessment or assignment of lands at the time of the partition, and shall make a report upon the case to the Commissioner for such action as the Commissioner may think proper.

102. If it is proved to the satisfaction of the "Lieutenant-Governor,"* at any time within six years of Lieutenantfrom the date of the confirmation or sanc-Governor to order a new allotment of the land revetion of a partition by the Commissioner or the Board, as the case may be, whether or not upon enquiry made under section 101, that, through any fraud or error at the time of making the partition, the assets of the lands assigned to any separate estate were not in proportion to the amount of land-revenue for which such estate was made liable, or that the amount of land-revenue assessed on any separate estate was not in proportion to the assets of the lands assigned to such estate,

the "Lieutenant-Governor*" may order a new allotment of the land-revenue upon the separate estates in accordance with the principles prescribed in this Act, on an estimate of the assets of each such estate as they stood at the time of the partition, such estimate being made on such evidence and information as may be procurable.

Power to require proprietors of under-assessed estates to make refund to proprietors of over-assessed estates.

103. (1) Whenever the Lieutenant-Governor passes an order under section 102 for the re-allotment of the land-reveue on any separate estate, he may direct that the propritors whose estates are found to have been under-assessed shall, for each year, during which they have held

possession of the separate estates, be required to pay, to the recorded proprietors of the estates which have been over-assessed, a sum equal to the annual amount in which the latter are found to have been over-assessed; and, in default of payment, such. sum shall be recoverable as provided in section 108.

- (2) No order passed by the Lieutenant-Governor under subsection (1) shall be liable to be contested in any Court.
- 104. Every notification required by this Act to be published shall, unless it is otherwise specially direct-Publication of notifications. ed, be published by posting up copies of the same-
 - (a) at the office of the Collector,
 - (b) at the office of the Deputy Collector who is to make, is making, or has made, the partition,

^{*} In Bihar and Orissa for the words "Lieutenant-Governor" read the word "Board" and in the Presidency of Bengal read the words "Governor-in-Council of Fort William in Bengal."-Vide B. & O. Act III. of 1916 and Act VII. of 1912,

(c) at the village-office or village-offices, if any, of the proprietors of the parent estate, and

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(d) in one or more of the principal villages in the said estate.

Service of notices.

105. (1) Any notice required by this Act to be served on any person may be served—

- (a) by delivering the notice to the person to whom it is directed, or, on failure to effect such delivery, by posting it on some conspicuous part of the house in which the said person usually resides; or
- (b) by sending a registered letter, containing the notice, to such person, directed to the address, if any, which he has registered under this Act; or
- (c) by delivering the notice to a general agent of the person to whom it is directed, or to any person who has been appointed in that behalf, or who has been appointed an agent of the person to whom the notice is directed for the general purposes of any partition under this Act; or
- (d) by affixing a copy of the notice at the village-office of the person to whom the notice is directed;

or, if no such village-office be found, and if the notice cannot be served in any of the other modes mentioned in this section, by affixing a copy of the notice on some conspicuous place on the estate to which the notice relates.

(2) Where two or more persons are joint applicants for the separation of an estate to be held by them jointly as a separate estate, the service of a notice, in any of the modes mentioned in sub-section (1), on any one of such joint applicants, shall be deemed to be good and sufficient service on both or all of them.

Mistakes and irregularties not to vitiate proceedings. 106. If the directions of this Act are in substance and effect complied with, no proceedings there-under shall be affected—

- (a) by reason of any mistake or informality unless any person has suffered, or is in danger of suffering, material injury in consequence of such mistake or informality; or,
- (b) by reason of the omission to publish any notification required by this Act, or to serve any notice on any person whose name is not recorded on the Collector's registers as propritor of the estate in respect of which the notice is required by this Act to be served.
- 107. If any proprietor or other person fails to comply,

 Fine in case of non-comwithin the time fixed therefor by notice, with
 pliance with requisition.

 any requisition made upon him under this Act

1897. by the Collector or Deputy Collector, the Collector or Deputy Collector, as the case may be, may impose upon him such daily fine as he may think fit, not exceeding fifty rupees;

and such fine shall be payable daly until the requisition is complied with:

and the Collector or Deputy Collector, as the case may be, may proceed, from time to time, to levy the amount which has become due in respect of any such fine:

Provided that, whenever the amount payable exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respact of the fine shall be made otherwise than by the anthority of the Commissioner.

108. Except as herein otherwise expressly provided, all fees, Fees, &c. to be recoverations, costs, and other sums ordered under ble as public demands. this Act to be paid by any person, shall be deemed to be public demands, and shall be recoverable under the Public Demands' Recovery Act, 1895.*

Powers and functions of Deputy Collector may be exercised by Collector

109 All or any powers and functions which are assigned by this Act to a Deputy Collector may be exercised and discharged by the Collector;

and, whenever it is provided by this Act that any act done, or order made, by a Deputy Collector, shall require the sanction of the Collector, or shall be appealable to the Collector, then, if such act has been done, or such order has been made, by the Collector, it shall he deemed to have been sanctioned by the Collector, or to have been confirmed by the Collector in appeal, as the case may be.

- 110. (1) The "Lieutenant-Governor" may vest any Collector or Power to vest Collector Deputy Collector with all or any of the powers or Deputy Collector with which, under the provisions of any law for the time being in force, might be exercised by them respectively, or might be conferred on them respectively, if they were making a settlement of a parent estate.
- (2) Such powers may be conferred either generally in respect of all estates in the partition of which the Collector or Deputy Collector may at any time, and in any district, be engaged, or specially in respect of any particular estate.

Appeals to the Collector, and admission by him of one month from the date of the order appealing against every order of a Deputy Collector—

(a) directing, under section 39, by whom or how the costs of an enquiry held in consequence of an objection raised shall be paid;

^{*} Ben. Act I. of 1895.

⁺ In Bengal Presidency read "Governor-in-Council of Fort Willam in Bengal,"—Act VII. of 1912.

(b) made under section 47, sub-section (3), declaring what 1897. entry in a record of existing rents and other assets of land shall be accepted for the purposes of the parti- Act 5.

- (c) made under section 50, adopting a record of existing rents and other assets of land:
- (d) refusing, under section 51, to allow recorded proprietors to make a partition privately among themselves, or by arbitration ;
- (e) rejecting, under section 76, sub-section (3), an application for partition according to separate possession;
- (f) directing, under section 81, sub-section (3), that a tenure or holding be split up, and that the rent thereof be apportioned; or
- (g) imposing a fine under section 107.
- (2) Objections to any other orders passed by the Deputy Collector shall only be admitted by the Collector if made when he proceeds to consider a partition under section 58.
- 112. (1) An appeal, if presented to the Commissioner, or to the Collector for transmission to the Com-Appeals to the Commismissioner, within one month from the date sioner, and admission by him of objections. of the order appealed against, shall lie to the Commissioner against every order of a Collector (whether such order be passed by the Collector in the first instance, or in appeal from the order of a Deputy Collector)—
 - (a) rejecting an application for the partition of an estate, or for the separation of a share, or putting an end to proceedings for effecting a partition or separation after the application has been admitted;
 - (b) directing, under section 29, that an application for partition or separation be admitted;
 - (c) directing under section 38, that any proprietor shall pay more than his proportionate share of the cost of a partition;
 - (d) made under section 50, adopting a record of existing rents and other assets of land;
 - (e) refusing, under section 55, to approve a partition made by proprietors, or by an arbitrator or arbitrators;
 - (f) refusing to allow a partition to be made under section 76 in accordance with separate possession;
 - (g) directing, under section 85, that any sum exceeding five. hundred rupees shall be levied from the proprietor of an estate not under partition;
 - (h) confirming, amending, or rejecting, under section 86, an allotment made under section 84;

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- (i) made under section 88, when a dispute or doubt exists as to whether any land forms part of a parent estate;
- (j) imposing, or confirming the imposition of, a fine under section 107; or
- (k) imposing any fine amounting to more than fifty rupees, or directing the payment of any costs amounting to more than fifty rupees.
- (2) Objections to any other orders passed by the Collector shall only be admitted by the Commissioner if made when he proceeds to consider a partition under section 90 or section 91.
- 113. An appeal, if presented to the Board, or to the Commissioner for transmission to the Board, within six weeks from the date of the order appealed against, shall lie to the Board against every order of the Commissioner—
 - (a) confirming, modifying, or reversing any order of the Collector rejecting an application for the partition of an estate, or putting an end to proceedings for effecting a partition after the application has been admitted;
 - (b) confirming, modifying, or reversing any order of the Collector directing, under section 29, that an application for partition be admitted;
 - (c) confirming or amending a partition as approved or made by the Collector; or
 - (d) imposing, or confirming the imposition of, any fine amounting to five hundred rupees, or ordering, or confirming an order directing, the payment of any costs amounting to more than five hundred rupees.
 - 114. (1) Except in the cases mentioned in section 113, when Limitation of appeals; an order of a Collector, whether passed by revision by Board; further him in the first instance, or in appeal from the order of a Deputy Collector, is upheld by the Commissioner, no further appeal shall lie; but the Board, acting either on the application of the party aggrieved, or of their own motion, may call for the record of the case, and pass such order as they think fit.
- (2) When an order of a Collector, whether passed by him in the first instance, or in appeal from the order of a Deputy Collector, is modified or reversed by the Commissioner, a further appeal shall lie to the Board in the following cases only, namely, when the order of the Collector was one—
 - (a) directing, under section 38; that any proprietor shall pay more than his proportionate share of the cost of a partition, when the excess which he is ordered to pay exceeds five hundred rupees;

(b) made under section 50; adopting a record of existing rents and other assets of land;

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- (c) directing, under section 85, that any sum exceeding five hundred rupees shall be levied from the proprietor of an estate not under partition; or
- (d) confirming, amending, or rejecting, under section 86, an allotment made under section 84.
- 115. When an appeal is presented under section III, section Stay of proceedings II2, or section II3, or when the Board calls, pending appeal or revision under section II4, sub-section (1), for the record of a case, the proceedings shall not be stayed pending the appeal or revision unless the appellate or revising authority so directs.
- Revision of proceedings or Commissioner connected with giving connected with giving possession.

 The proceedings of Commissioner connected with giving possession to the proprietors of their respective separate estates in pursuance of section 94 may be set aside or amended by the Collector, Commissioner, or Board, as the case may be, provided that the revising authority shall, within three months from the date on which such possession has been given, make an order to the effect that such proceedings are under its consideration.
- (2) Every such order shall, when made by the Commissioner or the Board, be communicated to the Collector of the district, and the Collector shall cause all such orders to be published by notification.
- 117. The Collector, the Commissioner, and the Board, res-Orders as to costs on pectively, may pass such orders as they appeal. think fit in respect of the payment of the costs of any appeal which is made to them respectively under this Act.
- 118. If, in any case in which a Collector or other officer exercises jurisdiction under this Act, any person Powers of officers exeris guilty of the offence of giving or fabricising jurisdiction under cating false evidence, or of torgery, as this Act with regard to false evidence or forgery. defined in the Indian Penal Code,* or of abetting any of those offences, such Collector or other officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure, 1882, in a Civil Court when any such offence is committed before or against such Court, or when a document believed to be a forgery is given in evidence in any proceedings in such Court.

Act XLV. of 1860.

[†] This reference to the Code of 1882 shall now be taken to have been made to Act V. of 1898 (the new Code of Criminal Procedure).—See s. 3 (1) of the latter Act.

Certain orders under this Act not liable to be contested or set aside by civil suit.

119. No order—

- (a) refusing to admit an application for partition, or to carry out a partition, on any of the grounds mentioned in section 11; or
- (b) made under section 20, section 30, Chapter V., Chapter VII., Chapter VIII., Chapter IX. (except section 81) Chapter X., section 107, or section 117.

shall be liable to be contested or set aside by suit in any Court, or by any means other than those expressly provided in this Act:

Provided that-

- (i) any person claiming a greater interest in lands which, were held in common tenancy between two or more estates than has been allotted to him by an order under section 84 or section 86; or
- (ii) any person who is aggrieved by an order made under section 88.

may bring a suit in a Court of competent jurisdiction to modify or set aside such order.

Board to be guided by orders or instructions of Lieutenant-Governor.

120. In the execution of the duties imposed on the Board by this Act, the Board shall be guided by such orders or instructions as they may, from time, receive from the Lieutenantto time. Governor.

121. The Board may, from time to time, Power of Board to make with the previous sanction of the Lieutenant-Governor, make rules-

- (a) prescribing, in pursuance of section 18, clause (g), particulars to be contained in applications for partition;
- (b) for regulating the appointment of persons under section 35 and the scale of their remuneration, and for enabling an officer making a partition to keep himself informed of the proceedings of such persons, and to exercise a proper control over them;
- (c) for determining the costs of partition;
- (d) for fixing, for the purposes of section 37, the instalments in which, and the times at which, the cost of making partition shall be levied from proprietors;
- (e) for fixing a general scale of fees for the levy of charges from proprietors of estates under partition, when the formation of an Estates. Partition Fund has been directed under section 42;

(f) for fixing the instalments in which, and the times at 1897. which, the said fees shall be levied from proprietors;

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- (g) generally, for regulating the receipts, disbursements, and management of any Estates Partition Fund formed under the said section 42;
- (h) prescribing what entries in the record of existing rents and other assets shall be read out, and, when necessary, corrected or added to, under section 47, sub-section (2);
- (i) prescribing the manner in which, and the period for which, copies of survey-papers and records of existing rents and other assets shall be published under section 48;
- (j) prescribing the entries in survey-papers or records of existing rents and other assets, of which copies shall be furnished to landlords and tenants under the said section 48:
- (k) prescribing the form of partition-papers to be delivered under section 53, or prepared under section 57; and,
- (1) generally, for the guidance of officers in conducting partitions, or making a survey, and preparing a record of existing rents and other assets of land under this Act.

ACT NO. I. OF 1898.

The Calcutta Police Act, 1898.

RECEIVED L.-G.'S ASSENT ON 30TH APRIL, AND G.-G.'S, 17TH MAY, 1898.

An Act to extend certain portions of the Police Act, 1861* to the Town and Suburbs of Calcutta.

WHEREAS it is expedient to extend certain portions of the Police Act, 1861,* as amended by the Police Act (1861) Amendment Act, 1895,† to the Town and Suburbs of Calcutta, subject to the modifications hereinafter appearing;

And whereas, the said Acts having been passed by the Governor-General of India in Council, the previous sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,‡ to the passing of this Act;

It is hereby enacted as follows:-

[†] Act VIII, of 1895. • Act V. of 1861.

1898. Act 1. Short title and commencement.

Cutta Police

1. (1) This Act may be called the Calcutta Police Act, 1898;*

- (2) It shall come into force on the day on which it is first published in the Calcutta Gazette after having received the assent of the Governor-General.
- 2. The portions of the Police Act, 1861,‡ as amended by the Extension of portions of the Police Act (1861) Amendment Act, 1895,§ which are specified in the first column of the Schedule to this Act, are hereby extended, subject to the modifications set forth in the second column of that Schedule, to—
- (1) the Town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866, and
- (2) the area to which Bengal Act II. of 1866 (an Act to provide for the better regulation of the Police within the Suburbs of the Town of Calcutta) for the time being applies by virtue of any notification published under section 1 thereof.

THE SCHEDULE.

I	2
Portions of the Police Act, 1861, extended.	Modifications.
So much of section 1 as— (a) defines "property," "person," and "month," and (b) relates to number and gender	
Section 15	In sub-section (1), after "them," insert "or of any persons resorting to such area." In sub-section (2), for "the Inspector-General of Police or other officer authorized by the Local Government in this behalf," read "the Commissioner of Police." In sub-section (4), for "The Magistrate of the district," read "Such officer as the Local Government may appoint in this behalf, or, in the suburbs, the Magistrate of the 24-Parganas," and for "the Magistrate's," read "such officer's or Magistrate's."

^{*} The word "and" has been omitted by Act I. of 1903.

[†] I.e., the 25th May 1893.

¹ Act V. of 1861.

⁴ Act VIII. of 1895.

Ben. Act IV. of 1866. - See. supra.

1127 1898. Act 1. Portions of the Police Act, 1861, Modifications. extended. In sub-section (1), after "them," insert "or of Section 15A any persons resorting to such area;" omit the words, "being an inhabitant of such area;" and for "the Magistrate of the district or of the sub-division of a district within which such area is situated," read "the officer appointed under section 15, sub-section (4), cr, in the suburbs, the Magistrate of the 24-Parganas.' In sub-section (2), for "the Magistrate of the district," read "the officer appointed as aforesaid, or, in the suburbs, the Magistrate of the 24-Parganas;" and for clause (c), read-" (c) assess the proportion in which the same shall be paid-(i) by the inhabitants of the area specified in the preclamation (other than the applicant), or (11) by the inhabitants of the area of which the persons resorting as aforesaid are inhabitants, or (iii) by the inhabitants of both the said areas, who shall not have been exempted from liability to pay under the next succeeding sub-section. In the proviso to sub section (2), before "Magistrate," insert "said officer or," and for "such area," read "the area specified in the proclamation," In sub-section (4), for "the Magistrate of the district," read "the officer appointed as aforesaid or the Magistrate of the 24-Parganas." Section 16 In sub-section (1), for "sections 13, 14, 15, and 15A," read " sections 15 and 15A." In sub-sections (1) and (3), for "the Magistrate of the district," read "the officer appointed under section 15, sub-section (4), or the Magistrate of the 24-Parganas, as the case

may be.

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Portions of the Police Act, 1861, extended.	Modifications.		
Section 16—concld	In sub-section (1), for "in the manner provided by sections 386 and 387 of the Code of Cri- minal Procedure, 1882, for the recovery of fines," read "under the provisions of the Code of Criminal Procedure for the time be- ing in force in relation to the issue and execu- tion of warrants for the levy of fines."		
	In sub-section (2), for "All moneys paid or recovered under sections 13, 14, and 15 shall be credited to a fund to be called "the General Police Fund, and," read "All moneys paid or recovered under section 15."		
	In sub-section (3), for "that section," read "the said section 15A."		
Section 46, sub-section (2)	In sub-section (2), omit the words, "When the whole or any part of this Act shall have been so extended"		
	In clause (a) of sub section (2), for "Magistrates," read "the officer appointed under section 15, sub-section (4), the Magistrate."		

The following paper is published for general information:—

Sections of the Police Act, 1861,* in the form in which they are extended to the

Town and Suburbs of Calcutta by Ben. Act 1. of 1898.

1. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context regugnant to such construction, that is to say:—

the word "property" shall include any moveable property, money, or valuable security:

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

words importi g the masculine ge nder shall include females:

the word "person" shall include a company or corporation:

the word "month # shall mean a calendar month.

Quartering of additional policeling ideas and to be a quartering of additional policeling ideas are at cost of inhabitants.

found to be in a disturbed or dangerous after at cost of such area, or of any class or section of them, or of any persons resorting to such area, it is expedient to increase the number of police.

(2) It shall thereupon be lawful for the Commissioner of Police, with the sauction of the Local Government, to employ any police-force in addition to the ordinary fixed complement, to be quartered in the area specified in such proclamation as aforesaid.

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- (3) Subject to the provisions of sub-section (5) of this section, the cost of such additional police-force shall be borne by the inhabitants of such area described in the proclamation.
- (4) Such officer as the Local Government may appoint in this behalf, or, in the suburbs, the Magistrate of the 24-Parganas, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid, liable to bear the same, and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to such officer's or Magistrate's judgment of the respective means within such area of such inhabitants.
- (5) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.
- (6) Every proclamation issued under sub-section (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time, or continued from time to time for a further period or periods, as the Local Government may in each case think fit to direct.

Explanation.—For the purposes of this section, "inhabitants" shall include persons who, themselves or by their agents or servants, occupy or hold land or other immove able property within such area, and landlords, who themselves or by their agents or servants, collect rents direct from raivats or occupiers in such area, notwithstanding that they do not actually reside therein.

Award of compensation to sufferers from misconduct of inhabitants or persons interested in land.

15A. (1) If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property, has been caused by, or has ensued from, the misconduct of the inhabitants of such area or any class or section of them, or of

any persons resorting to such area, it shall be lawful for any person who claims to have suffered injury from such misconduct to make, within one month from the date of the injury, or such shorter period as may be prescribed an application for compensation to the officer appointed under section 15, sub-section (4), or, in the suburbs, the Magistrate of the 24-Pargan is.

- (2) It shall thereupon be lawful for the officer appointed as aforesaid, or, in the suburbs, the Magistrate of the 24-Parganas, with the sanction of the Local Government, after such enquiry as he may deem necessary, and whether any additional police-force has or has not been quartered in such area under the last preceding section, to-
 - (a) declare the persons to whom injury has been caused by, or has ensued from, such misconduct;
 - (b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and
 - (c) assess the proportion in which the same shall be paid-
 - (i) by the inhabitants of the area specified in the proclamation (other than the applicant), or
 - (ii) by the inhabitants of the area of which the persons resorting as aforesaid are inhabitants, or
 - (iii) by the inhabitants of both the said areas,

. who shall not have been exempted from liability to pay under the next succeeding sub-section:

Provided that the said officer or Magistrate shall not make any declaration or assessment under this sub-section unless he is of opinion that such injury as afore1898. Act 1.

said has arisen from a riot or unlawful assembly within the area specified in the proclamation, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

- (3) It shall be lawful for the Local Government, by order, to exempt any person or class or section of such inhabitants from liability to pay any portion of such compensation.
- (4) Every declaration or assessment made, or order passed, by the officer appointed as aloresaid or the Magistrate of the 24-Parganas under sub-section (2), shall be subject to revision by the Commissioner of the Division or the Local Government, but, save as aforesaid, shall be final.
- (5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section.
- (6) Explanation.—In this section the word "inhabitants" shall have the same meaning as in the last preceding section.
- Recovery of moneys payable under sections 15 and 15A shall be recoverable by the officer appointed under section 15, sub-section 15 and 15A, and disposal of same when recovered.

 The procedure for the time being in force in any competent Court.
- (2) All moneys paid or recovered under section 15 shall be applied to the maintenance of the police-force under such orders as the Local Government shall pass.
- (3) All moneys paid or recovered under section 15A shall be paid, by the officer appointed under section 15, sub-section (4), or the Magistrate of the 24-Parganas, as the case may be, to the persons to whom, and in the proportions in which, the same are payable under the said section 15A.
 - 46. (2) The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act—
 - (a) to regulate the procedure to be followed by the officer appointed under section 15, sub-section (4), the Magistrate, and police-officers in the discharge of any duty imposed upon them by or under this Act:
 - (b) to prescribe the time, manner, and conditions within and under which claims for compensation under section 15A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries, if necessary) which are to be taken consequent thereon;
 - (c) generally, for giving effect to the provisions of this Act.
- (3) All rules made under this Act may, from time to time, be amended, added to, or cancelled by the Local Government.

ACT NO. II. OF 1898.

1898.

Acts 2 The Calcutta Port (Amendment) Act, 1898. & 3.

RECEIVED L.-G.'S ASSENT ON 13TH, AND G.-G.'S, 31ST AUGUST,

An Act to amend the Calcutta Port Act, 1890.*

Preamble.

WHEREAS it is expedient to amend the Calcutta Port Act 1800;* It is hereby enacted as follows:-

1. (1) This Act may be called the Short title and commencement. Calcutta Port (Amendment) Act, 1808;†

(2) It shall come into force on the day ton which it is first published in the Calcutta Gazette after having received the assent of the Governor-General.

[Note.-The amendments made by the remaining sections (2 and 3) of this Act have been embodied in the Calcutta Port Act (Ben. Act III of 1890),—See ss 112 and 183 of that Act, supra.

ACT NO. III. OF 1898.

The Bengal Tenancy (Amendment) Act, 1898.

RECEIVED L.-G.'S ASSENT ON 5TH APRIL, AND G.-G.'S. 3RD MAY, 1898.

An Act to amend sections 30 31, 39, 52, and 119 and Chapter X. of the Bengal Tenancy Act, 1885.

WHEREAS it is expedient to amend sections 30, 31, 39, 52, and 119, and Chapter X. of the Bengal Tenancy Act, 1885, in the manner hereinafter appearing;

And whereas, the said Act having been passed by the Governor-General of India in Council, the previous sanction of the Governor-General has been obtained under section 5 of the Indian Councils Act. 1892, to the requisite amendments being made by an Act of the Lieutenant-Governor of Bengal in Council;

And whereas the sanction of the Governor-General has similarly been obtained to the amendment of the Court Fees Act 1870¶ which is proposed by section 7 (105) of this Act;

It is hereby enacted as follows::—

1. (1) This Act may be called the Ben-Short title and comgal Tenancy (Amendment) Act, 1808;† mencement.

^{*} Ben. Act III. of 1890. - See supra.

[†] The word "and" has been omitted by Act I. of 1903.

^{1 1.}e, the 7th September 1898.

Act VIII. of 1885.

Stat 55 & 56 Vict., c. 14.

Act VII. of 1870

1898. Act 3. (2) It shall come into force on the day* on which it is first published in the Calcutta Gasette after having received the assent of the Governor-General.

Amendment of Act VIII., 1885, section 30.

2. For clause (a) of section 30 of the Bengal Tenancy Act 1885,† the following shall be substituted, namely:—

- "(a) that the rate of rent paid by the raiyat is below the prevailing rate paid by occupancy-raiyats for land of a similar description and with similar advantages, in the same village or in neighbouring villages, and that there is no sufficient reason for his holding at so low a rate."
- 3. After clause (d) of section 31 of the said Act, the following shall be inserted, namely:—
 - "(e) if a favourable rate has been determined under clause (c) for any description of raiyats, such rate may, if the Court thinks fit, be left out of consideration in ascertaining the prevailing rate;
 - "(f) if the holding is held at a lump rental, the determination of the rent to be paid may be made by ascertaining the different classes of land comprised within the holding, and applying to the area of each class the prevailing rate paid on that class within the village or neighbouring villages.

Insertion of sections 31A 4. After section 31 of the said Act, the and 31B in Act VIII., 1885 the following shall be inserted, namely:—

"31A. (1) In any district or part of a district to which this

What may be taken in sub-section is extened by the Local Governcertain districts to be the "prevailing-rate."

ment by notification in the Calcutta Gazette whenever the prevailing rate for any class of land is to be ascertained under section 30 clause (a), by an examination of the rates at which lands of a similar description, and with similar advantages are held within any village or villages, the highest of such rates at which, and at rates higher than which, the the larger portion of those lands is held may be taken to be the prevailing rate.

" Illustrations.

"(a) The rates at which land of a similar description and with similar advantages is held in a village are as follow:—

Bighas,					F	ls.	A.	P.
100	•••	***	•••	***	at	I	0	0
200	•••	***	•••	•••	••• 1,	1	8	0
150	***	•••	•••	•••	*** 0	I	12	0
100	•••	•••	•••	•••		2	0	0
150	***	•••	***	• • • •	••• ,,	2	4	0
					-		-	

Total ... 700

^{*} I.e. the 2nd November 1898,

[†] Act VIII. of 1885.

"Then Rs 2-4 indicate he prevailing rate, because only 150 bighas, or less than half are held at that rate Rs. 2 is not the prevailing rate, because 350 bighas, or less than half, are held at that or a higher rate Re 1-12 is the prevailing rate, because 400 bighas, or more than half, are held either at this or a higher rate, and this is the highest rate at which, and at rates higher than which, more than half the land is held.

1898 Act 3

"(b) The rates at which land of a similar description, and with similar advantages, is held in a village are as follow:—

Bighass.						1	٦s.	A.	P.
100	•••	•••	••;	•••	•••	at	ţ	О	0
250		•••	•••	•••		,,	1	4	0
150			•••	•••	•••	,,	I	8	0
150		***	•••	•••	•••	,,	1	12	0
50	•••	•••	•••	•••	•••		2	0	0
Total 700									

Then, for the reasons given in Illustration (a), neither 'Rs. 2 nor Re. 1-12 is the prevailing rate, nor is Re. 1 8 the prevailing rate, because only 350 bighas (exactly half) are held at Re. 1-8 or at rates higher than Re. 1-8. In this case Re. 1-4 is the prevailing rate, because more than half the lands are held at Re. 1-4 or higher rates, and this is the highest rate at which, and at rates higher than which, more than half the land is held.

- "(2) The Local Government may, by a like notification, withdraw sub-section (1) from any district or part of a district to which it has been extended as aforesaid.
- "31B. When the prevailing rate has once been determined by Limit to enhancement of a Revenue-officer under Chapter X., or by a prevailing rate. Civil Court in any suit under this Act, it shall not be liable to enhancement save on the ground, and to the extent, specified in section 30, clause (b), and section 32."
- 5. After the word "correct" in sub-section (6) of section 39

 Amendment of Act VIII., of the said Act, the words, "and may pre1885, section 39 (6). sume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct," shall be inserted.

Amendment of Act VIII., 6. To section 52 of the said Act, the following shall be added, namely:—

"(5) When, in a suit under this section, the landlord or tenant is unable to indicate any particular land as held in excess, the rent to be added on account of the excess area may be calculated at the average rate of rent paid on all the lands of the holding exclusive of such excess area."

New Chapter X, for Act VIII., 1885.

7. For Chapter X. of the said Act, the following shall be substituted, namely:—

"CHAPTER X.

"RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

" Part I .- Record-of-Rights.

"101. (1) The Local Government may in any case, with the Power to order survey and preparation of recording Council, and may, if it thinks fit, without such sanction in any of the cases next here-

inafter mentioned, make an order directing that a survey be made, and a record-of-rights be prepared, by a Revenue-officer, in respect of the lands in any local area, estate, or tenure, or part thereof.

- "(2) The cases in which an order may be made under this section without the previous sanction of the Governor-General in Council are the following, namely:—
 - "(a) where the landlords or tenants, or a large proportion of the landlords or of the tenants, apply for such an order, and deposit, or give security for, such amount, for the payment of expenses, as the Local Government directs;
 - "(b) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally;
 - "(c) where the local area, estate, or tenure, or the part thereof, belongs to, or is managed by, the Government or the Court of Wards;
 - "(d) where a settlement of land-revenue is being, or is about to be, made in respect of the local area, estate, or tenure, or of the part thereof.
- "Explanation 1.—The term 'setlement of land-revenue,' as used in clause (d), includes a settlement of rents in an estate or tenure which belongs to the Government.
- "Explanation 2.—A superior landlord may apply for an order under this section notwithstanding that his estate or part thereof is temporarily leased to a tenure-holder.
- "(3) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.
- "(4) The survey shall be made, and the record-of-rights prepared in accordance with rules made in this behalf by the Local Government.
- Particulars to be reculars to be recorded shall be specified in the order, and may include, either without, or in addition to, other particulars, some or all of the following, namely:—
 - "(a) the name of each tenant or occupant;
 - "(b) the class to which each tenant belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, settled raiyat, occupancy-raiyat, non-occupancy raiyat, or under-raiyat and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure:

"(c) the situation and quantity, and one or more of the 1898 boundaries, of the land held by each tenant or occupier;

Act 8.

- "(d) the name of each tenant's landlord;
- "(e) the rent payable at the time the record-of-rights is being prepared;
- "(f) the mode in which that rent has been fixed—whether by contract, by order of a Court, or otherwise;
- "(g) if the rent is a gradually increasing rent, the time - at which, and the steps by which, it increases;
- "(h) the special conditions and incidents. if any, of the tenancy;
- "(i) if the land is claimed to be held rent-free—whether or not rent is actually paid, and, if not paid, whether or not the occupant is entitled to hold the land without payment of rent, and, if so entitled, under what authority.
- "103. On the application of one or more of the proprietors

Power for Revenue-officer to record particulars on application of proprietor, tenure-holder, or large proportion of raiyats.

or tenure-holders, or of a large proportion of the raiyats, of an estate or tenure, and on the applicant or applicants depositing or, giving security for the required amount for expenses, a Revenue-officer may subject to,

and in accordance with, rules made in this behalf by the Local Government, ascertain and record all or any of the particulars specified in section 102 with respect to the estate or tenure or any part thereof.

- "103A (1) When a draft record-of-rights has been prepared, the Revenue-officer shall publish the draft Preliminary publication, in the prescribed manner, and for the presamendment, and final publication of record-of rights. cribed period, and shall receive and consider any objections which may be made to any entry, therein, or to any omission therefrom, during the period of publication.
- "(2) When such objections have been considered and disposed of according to such rules as the Local Government may prescribe, and (if a settlement of land-revenue is being or is about to be made) the Settlement Rent Roll has been incorporated with the record under section 104F, sub-section (3), the Revenue-officer shall finally frame the record; and shall cause it to be finally published in the prescribed manner; and the publication shall be conclusive evidence that the record has been duly made under this chapter.
- "(3) Separate draft or final records may be published under sub-section (1) or sub-section (2) for different local areas, estates. tenures, or parts thereof.
- "103B. A certificate, signed by the Revenue officer, stating that a record-of-rights has been finally pub-Presumption as to correctness of record-of-rights lished under this chapter, shall be conclu-

1898. Act 8.

sive evidence of such publication; and every entry in a record-ofrights so published shall be presumed to be correct until the contrary is proved.

"Part II.—Settlement of Rents, Preparation of Settlement Rent Roll, and Decision of Disputes in Cases where a Settlement of Land-revenue is being or is about to be made.

Settlement of rents and preparation of Settlement Rent Roll when to be undertaken by Revenueofficer.

"104. In every case in which a settlement of land-revene is being or is about to be made, the Revenue-officer shall, after publication of the draft of the record-ofrights under section 103A, sub-section (1),—

- "(a) settle fair and equitable rents for tenants of every class,
- "(b) notwithstanding anything contained in section 192, settle a fair and equitable rent for any land in respect of which he has recorded, in pursuance of clause (i) of section 102, that the occupant is not entitled to hold it without payment of rent, and
- "(c) prepare a Settlement Rent Roll.

Procedure for settlement of rents and preparation of Settlement Rent Roll under this Part.

"104A. (1) For the purposes of settling rents under this Part and preparing a Settlement Rent Roll, the Revenue-officer may proceed in any one or more of the following ways, or partly in one of those ways and partly in another that is to say,—

- "(a) if in any case the landlord and tenant agree between themselves as to the amount of the rent fairly and equitably payable, the Revenue officer shall satisfy himself that the rent so agreed upon is fair and equitable, and, if he is so satisfied, but not otherwise, it may be settled and recorded as the fair and equitable rent;
- "(b) the Revenue-officer may himself propose what he deems to be the fair and equitable rent, and if the amount so proposed is accepted, either orally or in writing, by tenant, and if the landlord, after notice to attend, raises no objection, the rent so proposed may be settled and recorded as the fair and equitable rent;
- "(c) if the circumstances are, in the opinion of the Revenueofficer, such as to make it practicable to prepare a Table of Rates showing for any local area, estate, tenure, or yillage, or part thereof, or for each class of land in any local area, estate, tenure, or village, or part thereof, the rate or rates of rent fairly and equitably payable by tenure-holders and raiyats and under-raiyats of each class, he may frame a Table of

Rates, and settle and record all or any of the rents on the basis of such rates in the manner hereinafter described;

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- "(d) the Revenue-officer may settle all or any of the rents by maintaining the existing rentals recorded in the record-of-rights as published under section 103A, sub-section (r), or by enhancing or reducing such rentals: Provided that, in making any such settlement, regard shall be had to the principles laid down in sections 6 to 9 (both inclusive), 27 to 36 (both inclusive), 38, 39, 43, 50 to 52 (both inclusive), 180, and 191.
- "(2) The Settlement Rent Roll shall show the name of each landlord and of each tenant whose rent has been settled, and the amount of each such tenant's rent payable for the area shown against his name.

Contents of Table of "104B. (1) If a Table of Rates is prepared, it shall specify—

- "(a) the class or several classes of land for which, having regard to the nature of the soil, situation, means of irrigation, and other like considerations, it is, in the opinion of the Revenue-officer, necessary or practicable to fix a rate or different rates of rent; and
- "(b) the rate or rates of rent fairly and equitably payable by tenants holding land of each such class whose rent is liable to alteration.
- "(2) When the Revenue-officer has prepared the Table of
 Local publication of Rates, he shall publish it in the local area,
 estate, tenure, or village to which it relates,
 in the vernacular language prevailing in the district, and in the
 prescribed manner.
- "(3) Any person objecting to any entry in the Table of Rates

 Revenue-officer to deal may present a petition to the Revenuewith objections officer within a period of one month after such publication, and the Revenue-officer shall consider any such objection, and may alter or amend the Table.
- "(4) If no objection is made within the said period of one Table to be submitted to month, or, where objections are made, after superior Revenue-authority. they have been disposed of, the Revenue-officer shall submit his proceedings to the Revenue-authority empowered by rule made by the Local Government to confirm the Tables and Rent Rolls prepared under this Part (hereinafter called the 'confirming authority') with a full statement of the grounds of his proposals, and shall forward any petitions of objection which he may have received.

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- "(5) The confirming authority may confirm a Table submitted Proceedings of confirm under sub-section (4), or may disallow the ing authority. same, or may amend the same in any manner which appears to it proper, and may allow, in whole or in part, any objection forwarded therewith or subsequently made, or may return the case for further enquiry.
- "(6) When a Table of Rates has been confirmed by the confirming authority, the order confirming it
 shall be conclusive evidence that the proceedings for the preparation of the Table have been duly conducted in accordance with this Act; and it may be presumed that the
 rates shown in the Table for tenants of each class, for each class
 of land, are the fair and equitable rates payable for land of that
 class within the area to which the Table applies.
- "104C. When a Table of Rates has been confirmed under Application of Table of Section 104B, sub-section (5), the Revenue-officer may settle all or any of the rents, and prepare the Settlement Kent Roll on the basis of the rates shown in the Table, by calculating the rental of each tenure or each holding of a raiyat or under-raiyat on the area of such tenure or holding at the said rates:
- "Provided that the Revenue-officer shall not be bound to apply the said rates in any particular case in which he may consider it unfair or inequitable to do so.
- "104D. In framing a Table of Rates under section 104B, and Rules and principles to be followed in framing Table of Rates, and settling rents in accordance therewith.

 Revenue-officer shall be guided by such rules as the Local Government may make in this behalf, and shall, so far as may be, and subject to the proviso to the said section 104C, have regard to the general principles of this Act regulating the enhancement or reduction of rents.
- "104E. (1) When a Settlement Rent Roll for a local area, estate, Preliminary publication and amendment of Settlement Rent Roll. tenure, or village, or part thereof, has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner, and for the prescribed period, and shall receive and consider any objections made to any entry therein, or omission therefrom, during the period of publication, and shall dispose of such objections according to such rules as the Local Government may prescribe.
- "(2) The Revenue-officer may, of his own motion, or on the application of any party aggrieved, at any time before a Settlement Rent Roll is submitted to the confirming authority under section 104F, revise any rent entered therein:
- "Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

"104F. (1) When all objections have been disposed of under section 104E, the Revenue-officer shall submit the Settlement Rent Roll to the conforming authority, with a full statement of the grounds of his proposals and a summary of the objections (if any) which he has received.

1898. Act 3

- "(2) The confirming authority may sanction the Settlement Rent Roll, with or without amendment, or may return it for revision:
- "Provided that no entry shall be amended, or omission supplied, until reasonable notice has been given to the parties concerned to appear and be heard in the matter.
- "(3) After sanction by the confirming authority, the Revenueofficer shall finally frame the Settlement Rent Roll, and shall incorporate it with the record-of-rights published in draft under section
 103A.
- "104G. (1) An appeal, if presented within two months from the Appeal to, and revision by, date of the order appealed against, shall lie superior Revenue-author- from every order passed by a Revenue-ities.

 officer prior to the final publication of the record-of-rights on any objection made under section 104B, subsection (3), or section 104E; and such appeal shall lie to such superior Revenue-authority as the Local Government may by rule prescribe.
- "(2) The Board of Revenue may, in any case under this Part, on application or of its own motion, direct the revision of any record-of-rights, or any portion of a record-of-rights, at any time within two years from the date of the certificate of final publication, but not so as to affect any order passed by a Civil Court under section 104H:
- "Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.
- "104H. (1) Any person aggrieved by an entry of a rent settled Jurisdiction of Civil Courts in a Settlement Rent Roll prepared under in matters relating to rent. sections 104A to 104F, and incorporated in a record-of-rights finally published under section 103A, or by an omission to settle a rent for entry in such Settlement Rent Roll, may institute a suit in the Civil Court which would have jurisdiction to entertain a suit for the possession of the land to which the entry relates, or in respect of which the omission was made.
- "(2) Such suit must be instituted within six months from the date of the certificate of final publication of the record-of-rights, or, if an appeal has been presented to a Revenue-authority under section 104G, then within six months from the date of the disposal of such appeal.
- "(3) Such suit may be instituted on any of the following grounds, and on no others, namely:—

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- "(a) that the land is not liable to the payment of rent;
- "(b) that the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent;
- "(c) that the relation of landlord and tenant does not exist;
- "(d) that land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy;
- "(e) that the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging;
- "(f) that the Revenue-officer has not postponed the operation of the settled rent under the provisions of section 110, clause (a), or has wrongly fixed the date from which it is to take effect under that clause;
- "(g) that the special conditions and incidents of the tenancy have not been recorded or have been wrongly recorded.
- "The Secretary of State for India in Council shall not be made a defendant in any such suit unless the Government is landlord or tenant of the land to which the atoresaid entry relates, or in respect of which the aforesaid omission was made.
- "(4) If it appears to the Court that the entry of rent settled is incorrect, it shall, in case (a) or case (c) mentioned in sub-section (3), declare that no rent is payable, and shall, in any other case, settle a fair rent;
- and, in any case referred to in clause (f) or clause (g) of the said sub-section (3), the Court may declare the date from which the rent settled is to take effect, or pass such order relating to the entry as it may think fit.
- "(5) When the Court has declared under sub-section (4) that no rent is payable, the entry to the contrary effect in the record-of-rights shall be deemed to be cancelled.
- "(6) In settling a fair rent under sub-section (4) the Court shall be guided by the reads of the other tenures or holdings of the same class comprised in the same Settlement Rent Roll, as settled under sections 104A to 104F.
 - "(7) Any rent settled by the Court under sub-section (4) shall be deemed to have been duly settled in place of the rent entered in the Settlement Rent Roll.
 - "(8, Save as provided in this section, no suit shall be brought in any Civil Court in respect of the settlement of any rent or the omission to settle any rent under sections 104A to 104F.
 - "(9) When a Civil Court has passed final orders or a decree under this section, it shall notify the same to the Collector of the district.

1898. Act 3.

"104J. Subject to the provisions of section 104H, all rents
Presumptions as to rents
settled under sections 104A to 104F, and
entered in a record-of-rights finally published
to 104G, shall be deemed to have been correctly settled, and to be fair
and equitable rents within the meaning of this Act.

- "Part III.—Settlement of rents and Decision of Disputes in Cases where a Settlement of Land-revenue is not being or is not about to be made.
- Settlement of rents by Revenue officer in cases where a settlement of land-revenue is not being made, or is not about to be made, either the land-lord or the tenant applies, within two months from the date of the certificate of the final publication of the record-of-rights under section 103A, subsection (2), for s settlement of rent, the Revenue-officer shall settle a fair and equitable rent in respect of the land held by the tenant.
- "Explanation —A superior landlord may apply for a settlement of rent notwithstanding that his estate or tenure, or part thereof, has been temporarily leased.
- "(2) When, in any case in which a settlement of land-revenue is not being made, or is not about to be made, the Revenue officer has recorded, in pursuance of clause (1) of section 102, that the occupant of any land claimed to be held rent-free is not entitled to hold it without payment of rent, and either the landlord or the occupant applies, within two months from the date of the certificate of the final publication of the record-of-rights under section 103A, sub-section (2), for a settlement of rent, the Revenue-officer shall settle a fair and equitable rent for the land.
- "(3) Every application under sub-section (1) or sub-section (2) shall, notwithstanding anything contained in the Court Fees Act, 1870,* bear such stamp as the Government of India may, from time to time, prescribe by notification in the Gazette of India.
- "(4) In settling rents under this section, the Revenue-officer shall presume, until the contrary is proved, that the existing rent is fair and equitable, and shall have regard to the rules laid a wn in this Act for the guidance of the Civil Court in increasing or reducing rents, as the case may be.
- "(5) The Revenue-officer may, in any case under this section, propose to the parties such rents as he considers fair and equitable; and the rents so proposed, if accepted orally or in writing by the parties, may be recorded as the fair rents, and shall be deemed to have been duly settled under this Act.
- "(6) Where the parties agree among themselves, by compromise or otherwise, as to the amount of the fair rent, the Revenue-officer

1898. shall satisfy himself that the amount agreed upon is fair and equitable, and, if so satisfied, but not otherwise, he shall record the amount so agreed upon as the fair and equitable rent. If not so satisfied, he shall himself settle a fair and equitable rent as provided in sub-sections (4) and (5).

" 106, If, in any case under this Part, a dispute arises at any Decision of disputes by time within two months from the date of the Revenue-officer certificate of the final publication of the record-of-rights under section 103A, sub-section (2), regarding any entry which the Revenue-officer has made in, or any omission made from, the record,

whether such dispute be between landlord and tenant, or between landlords of the same or of neighbouring estates, or between tenant and tenant, or as to whether the relationship of landlord and tenant exists, or as to whether land held rent-free is properly so held, or as to any other matter,

a suit may be instituted before the Revenue officer, by presenting a plaint on stamped paper, for the decision of the dispute; and the Revenue-officer shall then hear and decide the dispute:

"Provided that the Revenue-officer may, subject to such rules as the Local Government may prescribe in this behalf, transfer any particular case or class of cases to a competent Civil Court for trial.

"107. (1) In all proceedings for the settlement of rents under this Part, and in all proceedings under sec-Procedure to be adopted tion 106, the Revenue-officer shall, subject to by Revenue-officer. rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure* for the trial of suits; and his decision in every such proceeding shall have the force and effect of a decree of a Civil Court in a suit between the parties. and, subject to the provisions of sections 108 and 109A, shall be final.

"(2) A note of all rents settled, and of all decisions of disputes by the Revenue-officer under section 105 or section 106, shall be made by him in the record-of-rights finally published under section 103A, sub-section (2), and such note shall be considered as part of the record.

"108 Any Revenue-officer specially empowered by the Local Government in this behalf may, on appli-Revision by Revenue-offication or of his own motion, within twelve months from the making of any order or decision under section 105, section 106, or section 107, revise the same, whether it was made by himself, or by any other Revenue- officer, but not so as to affect any order passed or decree made under section 109A:

"Provided that no such order or decision shall be so revised if an appeal from it is pending under section 109A, or until reasonable notice has been given to the parties concerned to appear, and be

heard in the matter.

"109, Subject to the provisions of section 109A, a Civil Court

Bar to jurisdiction of Civil shall not entertain any application or suit concerning any matter which is or has already been the subject of an application made, or suit instituted, under section 105, section 106, section 107, or section 108.

1898. Act 3.

- "109A. (1) The Local Government shall appoint one or more
 Appeals from decisions of Persons to be a special Judge or Special
 Judges for the purpose of hearing appeals
 from the decisions of Revenue-officers under sections 105 to 108
 (both inclusive).
- "(2) An appeal shall lie to the Special Judge from the decisions of a Revenue-officer under sections 105 to 108 (both inclusive), and the provisions of the Code of Civil Procedure * relating to appeals shall, as nearly as may be, apply to all such appeals.
- "(3) Subject to the provisions of Chapter XLII. of the Code of Civil Procedure;* an appeal shall lie to the High Court from the decision of a Special Judge in any case under this section (not being a decision settling a rent) as if he were a Court subordinate to the High Court within the meaning of the first section of that chapter:
- "Provided that, if, in a second appeal, the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which the rent of any tenure or holding has been settled, the Court may settle a new rent for the tenure or holding, but, in so doing, shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained under section 102, or settled under section 105 or section 108.

"Part IV .- Supplemental Provisions.

"110 When a rent is settled by a Revenue-officer under this Date from which settled chapter, it shall take effect from the beginning of the agricultural year next after the date of the decision fixing the rent or (if a settlement of land-revenue is being or is about to be made) the date of final publication of the Settlement Rent-Roll.

"Provided as follows:-

"(a) if the land is comprised in an area, estate, or tenure in respect of which a settlement of land-revenue is being or is about to be made, the rent settled shall, subject to the provisions of sections 191 and 192, take effect from the expiration of the period of the current settlement, or from such other date after the expiration of that period as may be fixed by the Revenue-officer;

1898. Act 3.

- "(b) if the land is not comprised in an area, estate, or tenure as aforesaid and if the existing rent has been fixed by a contract binding between the parties for an unexpired term of years, the rent settled shall take effect from the expiration of that term, or from such other date after the expiration of that term as may be fixed by the Revenue-officer.
- "1:1. When an order has been made under section 101,
 Stay of proceedings in directing the preparation of a record-ofcivil Court during preparation of record of-rights. rights, then, subject to the provisions of section 104H, a Civil Court shall not,—
 - "(a) where a settlement of land-revenue is being or is about to be made—until after the final publication of the record-of-rights, and
 - (b) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,

"entertain any suit or application for the alteration of the rent or the determination of the status or any tenant in the area to which the record-of-rights applies."

Limitation of jurisdiction of Civil Courts in respect of any order directing the preparation of a record-of-rights under this chapter, or in respect of the framing, publication, signing, relating to record-of-rights.

The propagation of any entry in such a record of a rent settled under sections 104A to 104F.

"Provided that any person who is dissatisfied with any entry in, or omission from, a record-of-rights framed in pursuance of an order made under section 101, sub-section (2), clause (d), which concerns a right of which he is in possession, may institute a suit for declaration of his right under Chapter VI. of the Specific Relief Act, 1877.*

- "112. (1) The Local Government, with the previous sanction of Power to authorize spe. the Governor-General in Council, may, on cial settlement in special being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order, or of the local welfare, invest a Revenue-officer acting under this chapter with the following powers or either of them, namely:—
 - "(a) power to settle all rents;
 - "(b) power, when settling rents, to reduce rents if, in the opinion of the officer, the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfare or inequitable.

"(2) The powers given under this section may be made exer- 1898. cisible within a specified area, either generally or with reference to specified cases or classes of cases.

- "(3) When the Local Government takes any action under this section the settlement-record prepared by the Revenue-officer shall not take effect until it has been finally confirmed by the Governor-General in Council.
- "113. (1) When the rent of a tenure or holding is settled under this chapter, it shall not, except on Period for which rents as settled are to remain unalthe ground of a landlord's improvement, tered. or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding or the holding of an under-raiyat having occupancy-rights, for fifteen years, and, in the case of a non-occupancy holding or the holding of an under-raivat not having occupancyrights, for five years; and no such rent shall be reduced within the periods aforesaid save on the ground of alteration in the area of the holding, or on the ground specified in section 38, clause (a).
- "(2) The said periods of fifteen years and five years shall be counted from the date on which the rent settled takes effect under this chapter.
- "114. (1) When the preparation of a record-of-rights has Expenses of proceedings been directed or undertaken under this chapter, in any case except where a settleunder chapter ment of land-revenue is being or is about to be made, the expenses incurred by the Government in carrying out the provisions of this chapter in any local area, estate, tenure, or part thereof (including expenses that may be incurred from time to time in the maintenance of boundary marks and other survey marks erected for the purpose of carrying out the provisions of this chapter), or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords, tenants, and occupants of land in that local area, estate, tenure, or part in such proportions, as the Local Government, having regard to all the circumstances, may determine.
- "(2) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area. estate, or tenure, or part.
- "Explanation.—The word 'tenure' in this section includes all revenue-free and rent-free tenures and holdings within a local area, estate, or tenure.
- "115. When the particulars mentioned in section 102, clause (b), have been recorded under this chapter Presumption as to fixity in respect of any tenancy, the presumpof rent not to apply where record of rights has been tion under section 50 shall not thereafter prepared. apply to that tenancy."

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1898. Act 3.

- 8. All records published under section 105 of the Bengal Validation of publication Tenancy Act, 1885.* before the commencement of this Act, whether in draft or final form, shall be deemed to have been duly published.
- Effect of settlements of rent and decisions by Revenue-officer under section 104 or section 106 of the Bengal Tenancy Act, 1885,*

 before the commencement of this Act, in respect of which no appeal has, before the commencement of this Act, been preferred to the Special Judge appointed under section 108 of that Act, shall have the force and effect of a decrea of a Civil Court in a suit

have the force and effect of a decree of a Civil Court in a suit between the parties, and shall be final:

Provided that an appeal shall lie to the District Judge from any such settlement or decision which was made or given within thirty days before the commencement of this Act, if the appeal be presented within thirty days from the date of such settlement or decision.

- (2) The provisions of the Code of Civil procedure† relating to appeals shall, as nearly as may be, apply to all such appeals.
- 10. In section 119 of the Bengal Tenancy Act, 1885,* the Amendment of Act VIII., words and figures, "sections 103A, 103B, 1885, section 119. 106, 107, 108, 109, and 109A," shall be substituted for the words and figures, "sections 105 to 109 both inclusive."
- 11. [Refeal of Bengal Act V. 1894].—Repealed by Act I. of 1903.

ACT NO. I. 1899.‡

The Bengal General Clauses Act, 1899.

RECEILED L.-G.'S ASSENT ON 22ND DECEMBER, 1898, AND G. G.'S, 7TH JANUARY, 1899.

An Act for futher shortening the Language used in Bengal Acts, and for other Purposes.

WHEREAS it is expedient further to shorten the language used in Bengal Acts, and to make certain other provisions relating to those Acts; It is hereby enacted as follows:—

^{*} Act VIII. of 1885. † Act XIV. of 1882.

^{†1} This Act was repealed and re-enacted for Eastern Bengal by E. B. and A. Act I. of 1999 The former Act has again been extended to Eastern Bengal by the Ben. Act I. of 1914.

Preliminary.

1899.

Short title.

1. This Act may be called the Bengal Act.1. general Clauses Act, 1899.

2. [Repeat].—Repealed by Act I. of 1903.

General Definitions.

- 3. In this Act, and in all Bengal Acts made after the commencement of this Act, unless there is anything repugnant in the subject or context,—
 - (1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code:*
 - (2) "act," used with reference to an offence or a civil
 wrong, shall include a series
 of acts; and words which refer
 to acts done shall extend also to illegal omissions;
 - (3) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
 - (4) "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;
 - (5) "Bengal" shall mean a territories within British India for the time being under the administration of the Lieutenant-Governor of Bengal;
 - (6) "Bengal Act" shall mean an Act made by the Lieute"Bengal Act" nant-Governor of Bengal in
 Councils Act 1861, or" the Indian Councils Acts,
 1861, and 1892;‡ [or the Indian Councils Acts, 1861,
 1892, and 1909, or made by the Governor in Council
 of Fort Willam in Bengal under the Indian Conncils
 Acts, 1861, 1892 and 1909].

"Chapter."

(7) "Chapter" shall mean a Chapter of the Act in which the word occurs;

Act XLV. of 1860.

[†] The words within quotations have been inserted by Act I. of 1903. \$\frac{1}{2}\$ Stats 24 & 25 Vict, c. 67. and 55 & 56 Vict, c. 14, respectively.

1899. Act 1.

- (8) "Collector" shall mean, in Calcutta, the Collector of
 "Collector." Calcutta, and elsewhere the
 chief officer in charge of the
 revenue-administration of a district;
- (9) "commencement," used with reference to an Act, shall mean the day on which the Act comes into force;
- (10) "Commissioner" shall mean the chief officer in charge of the revenue-administration of a division:
- (11) "Consular officer" shall include consul-general, consul,
 "Consular officer." vice-consul, consular agent,
 pro-consul, and any person for
 the time being authorized to perform the duties of
 consul-general, consul, vice-consul, or consular agent;
- "District Judge" shall mean the Jude of a principal
 "District Judge" Civil Court of original jurisdiction, but shall not include a
 High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;
- (13) "document" shall include any matter written, expressed,

 "Document." or described upon any substance by means of letters,
 figures, or marks, or by more than one of those means,
 which is intended to be used, or which may be used,
 for the purpose of recording that matter;
- (14) "enactment" shall include a Regulation (as hereinatter defined) and any Regulation of the Bengal Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid;
- (15) "father," in the case of any one whose personal law permits adoption, shall include an adoptive father;
 - "Financial year." shall mean the year commencing on the first day of April;
- "Good faith" where it is in fact done negligently or not;
- (18) Government" or "the Government" shall include the
 "Government."

 Local Government as well as the Government of India.

"Government of India" shall mean the Governor-General in Council or, during the absence of the Governor-General from his Council, the President in Council, or the Governor-General alone, as regards the powers which may be lawfully exercised by them or him respectively;

1899. Act 1.

- "Her Majesty" or "the Queen."
- (20) "Her Majesty" or "the Queen" shall include Her successors;
- (21) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;
- (22) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code;*
- (23) "local authority" shall mean a Municipal Committee,

 "Local authority" District Board, body of Port
 Commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;
 - "Local Government." (24) "Local Government" shall mean the Lieutenant-Governor of Bengal;
- (25) "Magistrate" shall include every person exercising all

 "Magistrate" or any of the powers of a

 Magistrate under the Code of

 Criminal Procedure† for the time being in force;
- (26) "master," used with reference to a ship, shall mean any
 "Master" (of a ship)" person (except a pilot or harbour-master) having for the time
 being control or charge of the ship;
 - "Month." (27) "month" shall mean a month reckoned according to the British calendar;
- (28) "moveable property" shall mean property of every description, except immoveable property;
- (29) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing

1899. (30) "offence" shall mean any act or omission made punishable by any law for the time Act 1. "Offence." being in force; (31) "Part" shall mean " Part." a Part of the Act in which the word occurs: (32) "person" shall include any company or association or body of individuals, whether " Person." incorporated or not; shall mean a public nuisance as (33) "public nuisance" defined in the Indian Penal " Public nuisance." Code:* (34) "registered," used with reference to a document, shall mean registered in British India "Registered." under the lawt for the time being in force for the registration of documents; (35) "Regulation" shall mean a Regulation made under the Government of India Act, "Regulation." 1870;‡ (36) "rule" shall mean a rule made in exercise of a power conferred by any enactment, "Rule." and shall include a Regulation made as a rule under any enactment; (37) "Schedule" mean a Schedule to the Act in "Schedule." which the word occurs; (38) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled "Scheduled District. Districts Act, 1874, (39) "section " mean a section of the Act in " Section " which the word occurs: (40) "ship" shall include every description of vessel used in navigation not exclusively pro-"Ship." pelled by oars; (41) "sign," with its grammatical variations and cognate expressions, shall, with refer-"Sign." ence to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions;

(42) "son," in the case of any one whose personal law

"Son."

permits adoption, shall include

^{*} Act XLV. of 1860. \$ Stat. 33 Vict.

[†] Act XVI. o 1908;

[‡] Stat. 33 Vict. c. 3. § Act XIV. of 1874.

"Sub-section."

(43) "sub-section" shall 1899. mean a sub-section of the section in which the word occurs:

Act 1.

- (44) "swear," with its grammatical variations and cognate expressions shall 'Swear." affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;
 - (45) "vessel" shall include any ship or boat, or any other description of vessel used ' Vessel" in navigation;
 - (46) "will" shall include a codicil and every writing making a voluntary posthumous dis-"Will." position of property;
 - (47) expressions referring to "writing" shall be construed as including references to printing, "Writing." lithography, photography, and other modes of representing or reproducing words in a visible form, and

Year."

- (48) "year" shall mean a year reckoned according to the British calendar.
- 4. The difinitions in section 3 of the following words, that is to say, "affidavit," "Magistrate," "month," "oath," and "swear," apply also, unless Application of certain of the foregoing definitions to previous Bengal Acts. there is anything repugnant in the subject or context, to all Bengal Acts made between the first day of June 1867 and the commencement of this Act.

Continuance of certain definitions for purposes of previous Bengal Acts.

- 5. In all Bengal Acts made between the first day of June 1867 and the commencement of this Act, unless there is anything repugnant in the subject or context,-
- (1) "land" includes houses and buildings and corporeal hereditaments and tenements of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and
- (2) "person" includes any incorporated company or incorporated association of persons.

Gineral Kules of Construction.

6. (1) Where any Bengal Act is not expressed to come into Coming into operation of operation on a particular day, then it shall Bengal Acts, come into operation on the day on which it is first published in the Calcutta Gasette after having received he assent of the Governor-General.

1899. Act 1.

- (2) Unless the contrary is expressed, a Bengal Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.
 - 7. In this Act, and in every Bengal Act made after the com-Printing of date on which Act is published after publication as is mentioned in section 6, sub-section (1), shall be printed above the title of the Act, and shall form part of the Act.
- 8. Where this Act, or any Bengal Act, made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—
 - (a) revive anything not in force or existing at the time at which the repeal takes effect; or
 - (b) affect the previous operation of any exactment so repealed, or anything duly done or suffered thereunder; or
 - (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed; or
 - (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or
 - (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the Repealing Act had not been passed.

- 9. (1) In any Bengal Act made after the commencement of this Revival of repealed enact. Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.
- (2) This section applies also to all Bengal Acts made between the first day of June 1867 and the commencement of this Act.
- Construction of references mencement of this Act, repeals and re enacts, to repealed enactments. with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

11. In any Bengal Act made after the commencement of this Commencement and ter. Act it shall be sufficient, for the purpose of excluding the first in a series of days or any Act 1. mination of time. other period of time, to use the word "from," and, for the purpose of including the last in a series of days or any other period of time. to use the word "to."

1899.

12. Where, by any Bengal Act made after the commencement of this Act, any act or proceeding is directed Computation of time. or allowed to be done or taken in any Court or office on a certain day, or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877,* applies.

13. In the measurement of any distance for the purposes of any Bengal Act made after the commence-Measurement of distances. ment of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

14. In all Bengal Acts, unless there is Gender and number. anything repugnant in the subject or context,-

- (1) words importing the masculine gender shall be taken to include females; and
- (2) words in the singular shall include the plural, and vice versa.

Powers and Functionaries.

- 15. Where, by any Bengal Act made after the commencement of this Act, any power is conferred on the Powers conferred on the Government to be exerci-Government, then that power may be sible from time to time exercised, from time to time, as occasion requires.
- 16. Where, by any Bengal Act, a power to appoint any person to fill any office, or execute any function, is Power to appoint to conferred, then, unless it is otherwise include power to appoint exofficio. expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name, or by virtue of office.
- 17. Where, by any Bengal Act, a power to make any appointment is conferred, then, unless a different Power to appoint to include power to suspend or intention appears, the authority having dismiss. power to make the appointment shall also

1899. have power to suspend or dismiss any person appointed by it in exercise of that power.

- 18. In any Bengal Act made after the commencement of this Substitution of function. Act, it shall be sufficient for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.
- 19. In any Bengal Act made after the commencement of this

 Successors.

 Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.
- 20. In any Bengal Act made after the commencement of this Official chiefs and sub. Act, it shall be sufficient, for the purpose of ordinates. expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

Provisions as to Orders, Rules, &c., made under Enactments.

- 21. Where, by any Bengal Act, a power to issue any order, Construction of orders, scheme, rule, bye-law, notification, or form, &c., issued under Bengal is conferred, then expressions used in the order, scheme, rule, bye-law, notification, or form if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.
- 22. Where, by any Bengal Act, a power to make orders, rules, Power to make to include bye-laws, or notifications is conferred, then power to add to, amend, that power includes a power, exercisible in the like manner, and subject to the like sanction and conditions (if any), to add to, amend, vary, or rescind any orders, rules, bye-laws, or notifications so made.
- Making of rules or byelaws, and issuing of orders between publication and commencement of Bengal Act.

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 Bengal Act which is not to come into operation on the day on which it is first published in the Calcutta Gazette after having received the assent of the Governor-General, a power is conferred to make rules or bye-laws or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office, or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act,

then that power may be exercised at any time after the Act has been published as aforesaid, but rules, bye-laws; or orders so made Act 1 or issued, shall not take effect till the commencement of the Act.

1899

- 24. Where, by any Bengal Act, a power to make rules or byelaws is expressed to be given subject to Provisions applicable to making of rules or bye-laws the condition of the rules or bye-laws being after previous publication. made after previous publication, then the following provisions shall apply, namely:—
 - (1) the authority having power to make the rules or byelaws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;
 - (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Local Government prescribes;
 - (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration:
 - (4) the authority having power to make the rules or byelaws, and, where the rules or bye-laws are to be made with the sanction, approval, or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or byelaws from any person with respect to the draft before the date so specified;
 - (5) the publication in the Calcutta Gasette of a rule or byelaw purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.
- 25. Where any enactment is, after the commencement of this Act, repealed and re-enacted by a Bengal Continuation of orders, &c., issued under enactments Act with or without modification, then, repealed and re-enacted. unless it is otherwise expressly provided, any order, scheme, rule, bye-law, notification, or form issued under the repealed enactment, shall, so far as it is not inconsistent with the provisions, re-enacted, continue in force, and be deemed to have been issued under the provisions so re-enacted, unless and until it is superseded by any order, scheme, rule, bye-law, notification, or form issued under the provisions so re-enacted.

Miscellaneous.

26. Sections 63 to 70 of the Indian Penal Code,* and the provisions of the Code of Criminal Proceduret Recovery of fines. for the time being in force in relation to the Act 1.

1899. issue and the execution of warrants for the levy or fines, shall apply to all fines imposed under any Bengal Act, or any rule or bye-law made under any Bengal Act, unless the Act, rule, or byelaw, contains an express provision to the contrary.

- 27. Where an act or omission constitutes an offence under two or more enactments, then the offender Provision as to offences punishable under two or shall be liable to be prosecuted and punishmore enactments. ed under either or any of those enactments, but shall not be liable to be punished twice for the same offence.
- 28. Where any Bengal Act made after the commencement of Meaning of service by this Act authorizes or requires any document to be served by post, whether the expression "serve," or either of the expressions "give" or "send," or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying, and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- 29. (1) In any Bengal Act, and in any rule, bye-law, instrument or document made under, or with reference Citation of enactments. to, any Bengal Act, any enactment may be cited by reference to the title or short title (if any) conferred thereon, or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.
- (2) In this Act, and in any Bengal Act made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word section, or other part mentioned or referred to as forming the beginning, and as forming the end, of the portion comprised in the description or citation.
- 30. Where any Act, rule, or bye-law made after the commencement of this Act, continues or amends Saving for previous Acts, any Acts, rules, or bye-laws made before rules, and bye laws. the commencement of this Act, the foregoing sections of this Act shall not, by reason merely of such continuance or amendment, affect the construction of such Acts, rules, or byelaws.

BEN. ACT NO. It. OF 1899.

1899. Act 2.

The Bengal Civil Courts Amins Act, 1899.*

RECEIVED L.-G.'S ASSENT ON 21ST SEPTEMBER, AND G.-G.'S, 4TH OCTOBER, 1899.

An Act to repeal the Civil Courts Amins Act, 1856,† in Bengal.

WHEREAS it is expedient to repeal the Civil Courts Amins Act, 1856,* so far as it applies to Bengal; it is hereby enacted as follows:—

Repeal of Act XII. of 1. The Civil Courts Amins Act, 1856,* is hereby repealed throughout Bengal:

Provided as follows:-

- (a) this repeal shall not affect any appointment already made under the said Act, and
- (b) the persons holding such appointments shall perform such duties as may be required of them by the District Judge.

^{*} This short title was added by Act I. of 1903.

[†] Act XII. of 1856.

BEN. ACT NO. I. OF 1300

The Darjeeling Municipal, Act, 1900.

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BEN. ACT NO. I. OF 1900.

Act 1.

The Darjeeling Municipal Act, 1900.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received His Honor's assent on 20th and the G.-G.'s, 28th, February, 1900.)

An Act to amend the Bengal Municipal Act, 1884, in its Application to Darjeeling.

WHEREAS it is expedient to amend the Bengal Municipal Act, 1884,* in its application to Darjeeling;†

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Darjeeling Municipal Act, 1900.

PART 1.

- 2. The Bengal Municipal Act, 1884,* as amended by this

 Application of Bengal Act, shall extend to the Darjeeling MuniAct III. of 1884 to Daripeeling.

 Act, shall extend to the Darjeeling Municipal Act, cipality as constituted for the time being under the said Bengal Municipal Act, 1884.*
- 3. The Local Government, on the recommendation of the Power to include adjacent areas within the Darjeeling Cation in the Calcutta (casette, declare that Municipality for certain any area within the Darjeeling District and adjacent to the Darjeeling Municipality shall be deemed to be included within that Municipality for the purposes of such portions of the Bengal Municipal Act, 1884,* as amended by this Act, as may be specified in that behalf in such notification.

Amendment of section 6.

4. To section 6 of the Bengal Municipal Act, 1884,* the following shall be added, namely:—

[&]quot;(20) 'bridge' includes a culvert;

[&]quot;(21) 'drain' includes a jhora, water-course, channel, or natural drainage line;

[&]quot;(22) 'dwelling-house' means a masonry or framed building constructed, used, or adapted to be used, wholly or principally, for human habitation;

[&]quot;(23) 'framed building' means a building the external walls of which are constructed of timber framing or iron framing, and the stability of which depends on such framing;

^{*} Ben. Act III. of 1884.

[†] The portion of the preamble repealed by Act I. of 1903 has been omitted here

"(24) 'Government road' means a road maintained by the Government, or at the public expense;

190C Act :

- "(25) 'hut' means any building no material portion of which above the plinth-level is constructed of masonry or of squared timber framing or iron framing;
- "(26) 'masonry building' means any building other than a framed building or a hut;
- "(27) the expression 'materially alter,' when used with reference to a building, includes-
 - (a) the construction of a roof or an external or party-wall,
 - (b) any repairs to the building which involve the re-construction of a masonry or framed wall or a masonry chimney after the same has been entirely or in great part demolished,
 - (c) the closing-up of any door or window in an external wall,
 - (d) any alteration of the internal arrangements of a building which affects an alteration of its drainage, ventilation, or sanitary arrangements, or which affects its security,
 - (e) the addition of any building, room, verandah, out-house, or other structure,
 - (f) the roofing of any space between one or more walls and buildings,
 - (g) the enclosing of any varandah,
 - (h) the conversion into more than one place for human habitation of a building originally constructed as one such place, and
 - (i) the conversion of two or more places for human habitation into a greater number of such places:

Explanation.—Clause (f) applies only as regards the structure which is formed by roofing a space, and not as regards adjoining buildings;

- "(28) 'plinth' means the part of a wall between the ground-level and the level of the lowest floor of a building;
- "(29) 'private bridge' means any bridge which is not a public bridge as defined in this section:
- "(30) 'private drain' means any drain which is not a public drain as defind in this section, and includes any surface, sullage, and other drain or private property;
- "(31) 'private road' means any road, path, street, alley, way, or passage which is not a public road or a Government road as defined in this section;
- "(32) 'public bridge' means a bridge on or, over which a public road or any public work is carried, and the property in which is for the time being vested in the Commissioners;
 - "(33) 'public drain' means any drain which is vested in the Commissioners;
- "(34) the expression 'public road' means any road, path, street, alley, way, or passage over which the public have a right of way, and the property in which is vested in the Commissioners; and, as used in section 189, section 207, section 216, section 217, clause (1) and section 235, and in rule 5 of Schedule B and rule 18 of Schedule C, includes also a Government road; and
- "(35) the expression 're-erect,' when used with reference to a building, includes—
 - (a) the re-construction of a building after more than one-half its cubical extent has been taken down or burnt down, or has fallen down,
 - (b) the conversion of one or more huts or temporary structures into a masonry or framed building, and

(e) the conversion into a place for human habitation of any building not originally constructed for human habitation:

Explanation.—Clause (a) applies whether the re-construction takes place (after the commencement of the Darjeeling Municipal Act, 1900) entirely at the same time or by instalments at different times, and whether more than half the cubical extent has (after the commencement of the Darjeeling Municipal Act, 1100) been taken down or been burnt down, or fallen down at the same time or at different times."

Insertion of new section, 5. After section 6 of the said Act, the following shall be inserted, namely:—

- "6A. The Commissioners may decide whether any particular building is a Power to define character of framed building, a masonry building, or a hut, as debuilding.

 fined in section 6; and their decision shall be final."
- 6. Sections 175 to 182 of the said Act shall not apply in the case

 Restriction on applica. of any notice issued under any of the claustion of sections 175 to 182. es enacted by this Act, or under any rule or bye-law made under any such clause.

189A and 182B.

7. After section 182 of the said Act, the following shall be inserted, namely:—

"182A. (1) When the Commissioners, by written notice, make any requisition

Time for complaying with requietless or order, and power to
enforce requisition or order in
default of person directed.

Darjeeling Muncipal Act, 1900,* or under any rule or
bye-law made under any such clause, a reasonable
period shall be prescribed in such notice for carrying
such requisition or order into effect.

- "(a) If any such requisition or order, or any portion thereof, is not complied with within the period so prescribed or any further period allowed by them, the Commissioners may take such measures, or cause such work to be executed, or such things to be done, as may, in their opinion, be nec essary for giving due effect to such requisition or order; and the expenses thereof shall be paid by the person, or by any one of the persons, to whom such requisition or order was addressed.
- "(5) The commissioners may take any measure, execute any work, or cause any thing to be done under this section, whether or not the person who has failed to comply with the requisition or order is hable to punishment, or has been prosecuted er sentenced to any punishment for such failure.
- "182B. (1) Any person on whom a notice, under section 210B, section 210C, Right to show cause against section 244V, or section 248A, is served, may, at any certain requisitions or orders. time before the expiration of the period or further period prescribed under section 182A for carrying into effect the requisition or order made by the notice, appear before the Commissioners, and show cause why such requisition or order should not be complied with.
- "(a) If cause is shown as aforesaid by any such person, the Commissioners shall, after hearing him, either cancel the notice or confirm the same, subject to such modifications (if any) as they may think fit."
- 8. For the words "after six hours' notice in writing," in section

 Amendment of section 191 of the said Act, the words" without giving notice" shall be substituted.
- 9. In section 201 of the said Act, for the words "any road"

 Amendment of section and the words "part of a road," wherever they occur the words "any public road"

Ben. Act I. of 1900, i.e., this Act.

and the words "part of a public road" shall respectively be substituted.

1900. Act 1.

Insertion of new sections, 201 A to 201 G

10. After section 201 of the said Act, the following shall be inserted, namely:-

"201A. (1) If it appears to the Commissioners Absolute closing of public that any public road or part thereofroad.

- (a) threatens the stability or security of any hillside or bank, or any immoveable property thereon, or
- (b) in consequence of its condition or its situation with reference to any adjacent hillside or bank, cannot be efficiently maintained or repaired, except at a cost, which, in their opinion, is unreasonable.

"the Commissioners may, by public notice, declare such road or part to be absolutely closed:

- "Provided that the Commissioners shall, before declaring any public road or part thereof to be closed, be bound to provide other reasonably sufficient means of access to holdings adjacent to such road or part, if no such means of access already exist.
- "(2) From the date of any notice published under sub-section (1) in respect of any public road or part thereof, the Commissioners shall not be bound to maintain or repair such road or part; and the site thereof may be disposed of or otherwise dealt with in any manner the Commissioners may think fit:
- "Provided that, if the Commissioners determine to sell, or to let on lease, or otherwise transfer any part of such side which is adjacent to any private land or building, the owner of such land or building shall have a prior right to buy or take on lease such part at a reasonable rate.

Control over private roads and bridges.

"201B. All private roads and bridges shall be subject to the inspection and control of the Commissioners.

Control over construction or alteration ol private road or bridges.

"201C. (1) Every person who intends to construct, re-construct, or alter a private road or bridge, shall send to the Commissioners an application for permission to execute the work.

- "(2) Every such application shall be accompanied by the documents or particulars prescribed in this behalf in Schedule A.
- "(3) Every person applying for permission to construct, re-construct, or alter a private road must further mark out on the ground the alignment of the road for inspection by the Commissioners or an officer authorized by them in that behalf.
- "(4) The permission referred to in sub-section (1) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think fit to impose in accordance with the rules contained in the said Schedule A.
- "(5) No work referred to in sub-section (1) shall be commenced without the written permission of the Commissioners.
- "201D. If it appears to the Commissioners that any private road or bridge is so situated or is in such a condition, as to threaten Re-construction, &c., of prithe stability or security of any hillside or bank, or any vate road or bridge, immoveable property thereon, they may, by written notice require the owner-
 - (a) to re-construct, re-grade, divert, alter, or repair such road or bridge, or
 - (b) to make a revetment or retaining-wall on either side or both sides of such road, or
 - (c) to take such other order with such road or bridge as may be specified in the notice.

"201E. If it appears to the Commissioners that waterway ought to be pro-Provision or enlargement of vided on any private road, or that the waterway prowaterway on private road. vided on any private road ought to be enlarged, they may, by written notice, require the owner of the road-

- (a) to provide and maintain waterway, or
- (b) to enlarge the existing waterway,
- "as the case may require.
- "201F. Whenever any private road or bridge is to be constructed, re-cons-Rules as to construction, &c., tructed re-graded, diverted, altered, or repaired, and whenever waterway for ary private road is to be of private roads and bridges. provided or enlarged, in persuance of sec ion 201C, section 201D, or section 201E, the work shall be executed in accordance with the rules contained in Schedule A, so far as they are applicable to the particular case.
- "201G. If it appears to the Commissioners that the existence of any private road threatens the stability or security of any hillside Power to close private road. or bank, or any immoveable property thereon, they may, by written notice, require the owner to close the road, and to take order with the site thereof as they may consider necessary for the stability or security of such hillside, bank, or property as may be prescribed in the notice :
- "Provided that no notice shall be issued under this section in respect of any private road which constitutes the only approach to a building, unless, in the opinion of the Commissioners, another road affording a suitable approach to the building can be constructed at reasonable expense.

Substitution of new sections, 207 and 207A, for section 207.

11. For section 207 of the said Act, the following shall be substituted. namely:-

Removal of materials falling upon or into public road or drain.

"207. (1) Whenever any building, wall, revetment, or other crection, or any part thereof, or any stone; tree soil, or débris from private premises, falls down and obstructs any public road or drain, the Commissioners may cause the obstruction to be removed.

- "(2) All stone and trees so removed shall be separately heaped near the spot, and a notice shall be affixed in the vicinity calling upon the persons from whose premises the stone or trees or any of the same has or have fallen to take away the same.
- "(3) If, in the course of removing any obstruction under sub-section (1), it be found necessary to break up or blast any stone, or to cut up any tree, the work shall be executed by the Commissioners; and, if any persons desire, in pursuance of a notice affixed under sub-section (2), to take away any stone or tree which has been so dealt with, they must first pay to the Commissioners the expenses incurred by them under this sub-section.
- "(4) If such stone or trees be not taken away by the said persons within seventy-two hours after the affixing of the said notice, or within any further period allowed by the Commissioners, the same shall become the property of the Commissioners.

"207A. If it appears to the Commissioners that Removal of debris falling upon or into private road or any débris which has fallen upon or into any private road or drain ought to be removed, they may-

- (a) cause such débris to be removed, at the expense of the owner of the road or drain, or
- (b) by written notice require the said owner to remove the débris."

12. After section 210A of the said Act. Insertion of new sectious, 210B and 210C. the following shall be inserted, namely:

**210B. If it appears to the Commissioners that any building or portion of a Powers where buildings, &c.. building, or anything affixed to a building, or any wall or structure on any land, is in such a condition as to threaten the stabilly or security of any hillside or bank, or any immoveable property thereon,

1900. Act 1

- "the Commissioners may, by written notice, require the owner of such building or land-
 - (a) to take down such building, portion, thing, wall, or structure, and remove the materials, or
 - (b) to secure or repair such building, portion, thing, wall, or structure, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice, and.
 - (c) in case (a), also to take such order with the site of such building, wall, or structure, for ensuring the stability or security of any hillside or bank, or any immoveable property thereon, as may be prescribed in the notice.
- Powers where hillside or bank threatens the safety of such building cannot be ensured by taking action under section 248A, and also that such building threatens the safety of such building threatens the safety of some other building, they may, by written notice, require the owner of such first-mentioned building.—
 - (a) to take down the building and remove the materials, or
 - (b) to secure the building, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice,

"and may also, by written notice, require the owner of such other building to secure the same in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice."

Amendment of section 13. To section 220 of the said Act, the following shall be added, namely:—

"Provided also that the provisions enacted by the Darjeeling Municipal Act, 1900, shall take effect in the Darjeeling Municipality without being expressly extended thereto."

Insertion of new sections, 14. After section 224 of the said Act, the following shall be inserted, namely:—

- "224A. The Local Government may, by notification in the Calcutta Gasette,

 Power to define limits of define, for the purposes of this Act, the limits of any

 ihora, watercourse, channel, or natural drainage line.
- "224B. (1) Every person who intends to construct, re-construct, alter, stop up,

 Control over construction or obstruct any private drain, shall send to the Commissioners an application for permission to execute the
- "(2) Every such application shall be accompanied by a general description of the drain.
- "(3) The permission referred to in sub-section (1) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think fit to impose in accordance with the rules contained in Schedule B.
- "(4) No work referred to in sub-section (1) shall be commenced without the written permission of the Commissioners.

"224C. The Commissioners may, by written Re-construction, repair, &c., notice, require the owner of any building or landof private drains.

- (a) to re-construct, enlarge, extend, alter, repair, make efficient, stop up, or remove any drain belonging to such building or land, or
- (b) to alter the inclination or direction of any such drain, or
- (c) to provide moveable coverings or gratings for any such drain, of such nature as may be specified in the notice, or
- (d) to carry any such drain to such point of outlet or of junction with someother drain as may be specified in the notice."

Substitutiona of new sections for sections 227 and **228.**

- 15. For sections 227 and 228 of the said Act, the following shall be substituted, namely:—
- "227. If any building or land is not drained to the satisfaction of the Commissioners they may, by written notice, require the Power to require provision of owner to provide a drain therefor, at such inclination, private drain. and to such point of outlet or of junction with some other drain, as may be specified in the notices.
- " 228. (1) If it appears to the Commissioners that any buildings or lands belong-Private drainage in combina- ing to different owners can be drained, or the drainage thereof improved, more economically or advantageosuly in combination than separately, the Commissioners may cause such buildings or lands to be drained, or the drainage thereof to be improved, in such manner as they may consider suitable.
- "(2) The Commissioners may cause any drain which has been provided or improved under sub-section (1) to be maintained or repaired in such mauner as they may consider suitable.
- "(3) All expenses incurred under sub-section (1) or sub-section (2) in connection with the drainage of any buildings or lands shall be paid by the owners of such buildings or lands in proportion to the benefits derived by them respectively.
 - "(4) The said proportion shall be determined by the Commissioners."

Insertion of new section 229A.

16. After section 220 of the said Act the following shall be inserted, namely:—

"229A. Whenever any private drain is to be constructed, re-constructed, enlarged, extended, altered, repaired, or otherwise dealt Rules as to construction, &c., with in pursuance of section 224B, section 224C, section of private drains. 227, or section 228, the work shall be executed in accordance with the rules contained in Schedule B, so far as they are applicable to the particular case."

Inscriion of new sections, 236 to 244Z.

17. For sections 236 to 244 of the said Act and the heading prefixed thereto, the following shall be substituted, namely:-

"BUILDING REGULATIONS.

Prohibition of inflammable materials for roofs or external walls.

"236. (1) Except with the previous written permission of the Commissioners, external roofs or walls of buildings shall not, after the commencement of the Darjeeling Municipal Act, 1900, be made of grass, leaves, mats, canvas, shingles, or other inflammable material.

"(2) The Commissioners may, by written notice, require the owner or any building situated in or near a road, and contiguous to or adjoining any other building, and having, at the commencement of the Darjeeling Municipal Act, 1900, an external roof or wall made of any such inflammable material as aforesaid, to remove or, alter such roof or wall.

"(?) Sub-sections (1) and (2) shall not apply to any garden, hut, orchid-house, fernery, or other similar structure within a compound unless in any particular case the commissioners consider any such structure to be dangerous.

Use of building-sites, and erection, re-erection, and material alteration of buildings

"237. After the commencement of the Darjeeling Municipal Act, 1900, no land shall be used as a site for the erection, re-erection, or material alteration of a building, and no building shall be erected, re-erected, or materially altered, other-

wise than in accordance with the provisions of this Act and any rules, bye-laws, or orders made under this Act, relating to the use of building-sites, or the erection. re-erection, or material alteration of buildings, as the case may be.

" Masonry Buildings and Framed Buildings.

"238. (1) Every person who intends-

(a) to erect or re-erect a masonry or framed building, or

Application for approval of site for erection, re-erection, or ma-terial alteration of a masonry er framed building.

(b) to materially alrer a masonary or framed building in the manner referred to in sub-clause (a), sub clause (f), sub-clause (g), sub-clause (h), or subclause (j) of clause (27) of section 6,

"shall send to the Commissioners an application for approval of the site, together with a site-plan of the land.

- "(2) Every such application and site-plan shall contain the particulars, and be prepared in the manner, prescribed in this behalf in Schedule C.
- "239. Within thirty days after the receipt of any application made under Approval of site when to be section 238 for approval of a site, or of any information or further information required under Schedule C, the given or refused. Commissioners shall, by written order, either-
 - (a) approve the site, subject to such conditions or modifications (if any) as may be specified in the order, or
 - (b) refuse, on one or more of the grounds mentioned in section 244B, to approve the site.

Application for permission to erect, re-erect, or materially alter a masonry or framed building.

"240. (1) Every person who intends to erect, re-erect, or materially alter a masonry or framed building, shall send to the Commissioners an application for permission to execute the work, together with a plan of the building, complete elevations and sections of the work, and a specification of the work.

- "(2) Eevery document referred to in sub-section (1) shall contain the particulars, and be prepared in the manner, prescribed in this behalf in Schedule C.
 - "(3) Eevery application under sub-section (1) for permission-
 - (a) to erect or re-erect a masonry or framed building, or
 - (b) to materially alter a masonry or framed building in the manner indicated in clause (b) of section 238,

must be sent either together with the application sent under section 238, or within a period of six months from the issue, under this Act, of the order (if any) approving the site; and, if any such application be sent after the expiration of the said period. it shall not be received unless a fresh application is made under section 238 for approval of the site.

Permission to erect, re-erect. or materially alter a masonry or framed building not to be given unless and until site approved.

"241. Permission to erect or re-erect a masonry or framed building, or to materially alter a masonry or framed building in the manner indicated in clause (b) of section 238, shall not be given unless and until the Commissioners have approved the site on an application sent to them under section 238.

Work not to be commenced unless and until permission granted.

"242. The erection, re-erection, or material alteration of a masonary or framed building shall not be commenced unless and until the commissioners—

- (a) have granted written permission for the execution of the work on an application sent to them under section 240, or
- (b) where an appeal or reference has been made to the Engineer appointed under section 351D—have received orders from the Engineer determining that permission to execute the work should be granted.
- "243. Within thirty days after the receipt of any application made under sec-Permission to execute work tion 240 for permission to execute any work, or of any when to be granted or refused. information or further information required under Schedule C, the Commissioners shall, by written order, either—
 - (a) grant permission to execute the work, subject to such conditions or modifications (if any) as may be spelified in the order, or
 - (b) refuse, on one or more of the grounds mentioned in section 244 C, to grant such permission:
- "Provided that, where the approval of a site is required by this Act, the said period of thirty days shall not in any case begin to run until the site has been approved under this Act.
- "244. Whenever the Commissioners refuse to approve a site for the erection, Record of reasons when approval or permission refused.

 The proval or permission refused.

 Building, or to grant permission to erect, refused, or refusal, and a building, they shall state specifically the grounds for such a refusal.
- Reference to appellate Engineer if grant or refusal of approval or permission is delayed.

 Reference to appellate Engineer if grant or refusal of approval or permission is delayed.

 Case may be, the Commissioners have neither given nor refused their approval of a building site or their permission to execute any work, as the case may be, the Engineer is a second or permission of the case is a second or permission or permission is delayed.

gineer appointed under section 351D shall be bound, on a written reference being made to him by the applicant within 6 months after the expiration of the said period, to determine forthwith, by written order, whether such approval or permission should be given or not.

- "244B. The only grounds on which approval of a site for the erection, re-Grounds on which approval erection, or material alteration of a masonry or framed building, may be refused, are the following, namely:—
 - (1) that the site is not, in the opinion of the Commissioners or (where an appeal or reference has been made to the Engineer appointed under section 351 D) the Engineer, a safe site for the erection, re-erection, or alteration of the building;
 - (2) that the erection, re-erection, or alteration of the building upon the site would in the opin on of the Commissioners or (where an appeal or reference has been made to the Engineer appointed under section 351D) the Engineer threaten the stability or security of some hillside or bank, or some immoveable property thereon;
 - (3) that any particulars comprised in the site-plan would contravene some specified provision of this Act, or some specified rule, bye-law or order made hereinunder;
 - (4) that the application for such approval, or the site-plan, does not contain the particulars or is not prepared in the manner prescribed in Schedule C; or
 - (5) that any information required under the said schedule has not been duly furnished.
- "244C. The only grounds on which permission to erect, re-erect, or materially
 Grounds on which permission alter a masonry or framed building may be refused are the following, namely:—

(1) that, having regard to the site, to the plan of the building, to the eleva tions, sections, and specification of the work, and to the information and documents (if any) furnished to the Commissioners, the building, in the opinion of the Commissioners or (where an appeal or reference has been made to the Engineer appointed under section 351D) the Engineer,—

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- (a) would not be safe for human habitation, or
- (b) would threaten the stability or security of some hillside or bank, or some immoveable property thereon;
- (2) that the work, or any of the particulars comprised in the building-plan, elevations, sections, or specification, would contravene some specified provision of this Act, or some specified rule, bye-law, or order made hereunder;
- (3) that the application for such permission does not contain the particulars, or is not prepared in the manner prescribed in Schedule C; or
- (4) that any information required under the said schedule has not been duly furnished.
- "244D. (1) If the erection or re-erection of any masonry or framed building, Lapse of permission if not or the material alteration of any such building in the acted upon within six months. manner indicated in clause (b) of section 238, is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until fresh applications have been made under sections 238 and 240, and fresh approval and permission have been given under this Act.
- "(2) If any other material alteration of a masonry or framed building is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until a fresh application has been made under section Ao, and a fresh permission granted under this Act
- "244E. (1) When any site, after having been approved under this Act, has

 Notice before commencing building-work, and inspection of site.

 building-work, and inspection ing shall not less than three days before building-work is commenced, send to the Commissioners a written notice specifying the date on which it is proposed to commence such work.
- "(2) The Commissioners, or the Municipal Engineer if authorized by them in that behalf, may thereupon inspect the site; and, if it appears to the Commissioners that the site is in such a condition as to render the building unsafe, or that the proposed work would threaten the stability or security of any hillside or bank, or any immoveable property thereon, they may, by written order, withdraw their permission to execute the work, and may, if they think fit, by a like order grant a fresh permission, subject to such conditions for ensuring safety as they may consider necessary.
- "224F. Within fifteen days after the erection, re-erection, or material alteraNotice after completion of building work.

 tion of any masonry or framed building has been completed, the owner shall send to the Commissioners a written notice of the fact.
- "244G. The Commissioners or any officer authorized by them in that behalf, may, at any time during the erection, re-crection, or material alteration of any masonry or framed building, or within one month after the receipt of the notice sent under section 244F with respect to any building, inspect such building, without giving previous notice of the intention so to do.

Powers on inspecting building.

"244H. (1) If, when any such inspection is made the Commissioners find that the building is being or has been constructed—

(a) otherwise than in accordance with the plans approved under this Act, or

- (b) in such a way as to contravene any of the provisions of this Act, or any rule, bye-law, or or ler made hereunder, they may, by written notice, require the owner of the building either—
 - (1) to make such alterations as may be specified in the notice with the object of bringing the work into conformity with the said plans or provisions, or
 - (ii) to appear before them, and show cause why such alterations should not be made.
- "(2) If such owner does not appear and show cause as aforesaid, he shall be bound to make the alterations specified in such notice.
- "(3) If such owner appears and shows cause as aforesaid, the Commissioners shall after hearing him, cancel the notice issued under sub-section (1), or confirm the same subject to such modifications (if any) as they may think fit.

" Huts.

Application for (permission to erect, re-erect, or materially alter a hut.

- "244]. (1) Every person who intends to erect, reerect, or materially alter a hut, shall send to the Commissioners an application for permission to execute the work.
- "(2) Every such application shall contain the particulars and be prepared in the manner, prescribed in this behalf in Schedule C.

Work not to be commenced unless and until permission given.

- " 244K. The erection, re-erection, or material alteration of a hut, shall not be commenced unless and until the Commissioners—
- (a) have granted witten permission for the execution of the work on an application sent to their under section 244], or
- (b) where an appeal or reference has been made to the Engineer appointed under section 351D—have received orders from the Engineer determining that permission to execute the work should be granted.
- "244L. Within fourteen days after the recipt of any application made under Permission to execute work section 244] for permission to erect, re-erect, or matemation required under Schedule C, the Commissioners shall, by written order, either—
 - (a) grant such permission subject to such conditions or modifications (if any) as may be specified in the order, or
 - (b) refuse, on one or more of the grounds mentioned in section 244O, to grant such permission.

Record of reasons when permission refused.

"244M. Whenever the Commissioners refuse to graft such permission as aforesaid, they shall state specifically the grounds for such refusal.

"244N. If, within the period prescribed by section 244L, the Commissioners

Reference to appellate Engineer if grant or refusal of permission is delayed.

reference being made to him by the applicant within six months after the expiration of the said period, to determine forthwith, by written order, whether such permission should be granted or not.

Grounds on which permission to erect, re-erect, or materially alter a hut may be refused.

- "244O. The only grounds on which permission to erect, re erect, or materially alter a hut may be refused are the following, namely:—
- (1) in the case of erection, or re-erection, or of any material alteration of the kind indicated in class (b) of section 238, that the site is, in the opinion of the Csmmissioners or (where an appeal or reference has

been made to the Engineer appointed under section 351D) the 1900. Engineer, an unsafe site for a hut;

- (2) that the work would, in the opinion of the Commissioners or (where an Act 1. appeal or reference has been made to the Engineer appointed under section 351D) the Engineer, threaten the stability or security of some hillside or bank, or some immoveable property theron;
- (3) that the work would contravene some specified provision of this Act, or some specified rule, bye-law, or order made hereunder:
- (4) that the applicatio for such permission does not contain the particulars. or is not prepared in the manner, prescribed in Schedule C; or
- (5) that any information required under the said schedule has not been duly furnished.
- Lapse of permission if not acted upon which six months.

 commenced within six months after the date on which permission was granted to account the date of which permission was granted to account the date of which permission was granted to account the date of which permission was granted to account the date of which permission was granted to account the date of which permission was granted to account the date of which permission was granted to account the date of which permission was granted to account the date of which permission was granted to account the date of "244P. If the erection re-erection, or material alteration of any hut is not shall not be commenced until a fresh application has been made, and a fresh permission granted, under this Act.
- "244Q. (1) If any site be specially prepared for erecting, re-erecting, or Notice before commencing materially altering a hut in pursuance of any permission building-work, and inspection. granted under this Act, the owner of the hut shall, not less than three days before building-work is commenced, send to the Commissioners a written notice specifying the date on whic: it is proposed to commence such work.
- "(2) The Commissioners, or the Municipal Engineer if authorized by them in that behalf, may thereupon inspect the site; and, if it appears to the Commissioners that the site is in such a condition as to render the hut unsafe, or that the proposed work would threa en the stability or security of any hillside or bank, or any immoveable property thereon, they may, by written order, withdraw their permission to execute the work, and may, if they think fit, by a like order, grant a fresh permission subject to such conditions for ensuring safety as they may consider necessary.
 - "244R. The following buildings shall be exempted from the operation of sections 240 to 244Q, except in so far as those sections Exemptions. relate to sites, that is to say-
 - (a) any building erected and used, or intended to be erected and used, exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house), poultry-house, or aviary, provided the building be wholly detached from, and situated at a distance of at least ten feet from, the nearest adjacent building; and
 - (b) any building of a temporary character erected or intended to be erected by, or with the sanction of, the Commissioner for use solely as a hospital for the reception and treatment of persons suffering from any infectious or contagious disease.
 - "DEMOLITION, ALTERATION, AND STOPPING OF WORK.

Demolition or alteration of work unlawfully commenced, carried on, or completed.

"244S, It the Commissioners are satisfied-

- "(1) that any work referred to in section 201C, sub-section (1), or section 224B, sub-section (1), or the erection or re-erection, material alteration of any building-
 - (a) has been commenced without obtaining the permission of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351D) without waiting until the Commissioners have received the orders of the Engineer, or in contravention of any orders passed by him, or

- (b) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or
- (c) is being carried on or has been completed after such permission has been withdrawn, or
- (d) is being carried on or has been completed in breach of any provision contained in this Act, or in any rules or bye-laws made hereunder, or of any condition, modification, direction, or requisition lawfully imposed, made, or given under this Act or such rules or bye-laws, or
- "(2) that any alterations required by any notice issued under section 244H have not been duly made,
- "the Commissioners may apply to the Magistrate, and such Magistrate may make an order-
 - (i) directing that the work done, or so much of the same as has been unlawfully executed, be demolished by the owner, or altered by him to the satisfaction of the Commissioners, as the case may require, or
 - (ii) directing that the work done, or so much of the same as has been unlawfully executed, be demolished or altered by the Commissioners at the expense of the owner:
- "Provided that the Magistate shall not make any such order without giving the owner full opportunity of adducing evidence, and of being heard in defence.
- Power to stop progress of work unlawfully commenced or is being unlawfully commenced or is being unlawfully carried on, the Commissioners may, by written notice require the person carrying on the work to stop the same pending the decision of the Magistrate on an application made to him under that section.
- "(2) If any work be carried on upon any premises in contravention of a notice issued under sub-section (1), any person directing or carrying on such work may, under the orders of the Commissioners, be removed from the premises by any police-officer.
- "244U. When any person is liable to be directed to demolish work, and to Demolition and fine cumula- pay a fine under this Act, both those directions may be given at the discretion of the Magistrate.

"CONTROL OVER OCCUPATION OF BUILDINGS.

- "244V. (1) If it appears to the Commissioners that any building or the Power to prohibit occupation site thereof is, in consequence of its condition or of unsafe or insanitary building. its situation with reference to any hillside or bank, unsafe,
- "they may, by written notice, prohibit the owner or any other person from occupying, or continuing to occupy, the building, or from permitting it to be occupied until the building or the site, as the case may be, is rendered safe to the satisfaction of the Commissioners.
- "(2) If it appears to the Commissioners that the drainage of, or the latrine accommodation provided for, any masonry or framed building, is defective,
- "they may, by written notice, prohibit the owner from letting the building for occupation until the defects have been remedied to their satisfaction.
- "244W. If any person occupies, or continues to occupy, any building in Power to remove persons oc. contravention of any notice issued under sub-section cupying unsafe building.

 (1) of section 244V, he may, under the orders of the Commissioners, be removed from the building by any police-officer.

Prohibition of use of unfit dwelling-place, appears to the Commissioners to be building for human habitation. Write for human habitation, they may apply to the Magistrate to prohibit the further use of such building for such purpose; and the Magistrate may, by written order, make a prohibition as aforesaid, or may pass such other order as he may deem just and proper:

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- "Provided that the Magisirate shall not make any order under this subsection without giving the owner and occupier of the building full opportunity of adducing evidence, and of being heard in defence.
- "(2) When any such prohibition has been made, no owner or occupier of such building shall use the same, or suffer it to be used, for human habitation until the Commissioners certify in writing that the causes rendering it unfit for human habitation have been removed to their satisfaction, or the Magistrate, by written order, withdraws the prohibition aforesaid.
- "244Y. (1) If it appears to the Commissioners that any dwelling-house, or Abatement of overcrowding any hut which is used as a dwelling-place, or any nodwelling-house or dwelling-room in any such house or hut, is so overcrowded as to endanger the health of the inmates thereof, they may apply to the Magistrate to abate such overcrowding;
- "and the Magistrate may, by written order, require the owner of the building or room within a reasonable time, to be prescribed in the said order, to abate such overcrowding by reducing the number of lodgers, tenants, or other inmates of the building or room,
 - "or may pass such other order as he may deem just and proper:
- "Provided that the Magistrate shall not make any order under this subsection without giving the owner and occupier of the building or room full opportunity of adducing evidence, and of being heard in defence,
- "(2) The Commissioners may, by written order, declare what amount of superficial and cubic space shall be deemed, for the purposes of sub-section (1), to be necessary for each occupant of a building or room.
- "(3) If the owner of any building or room referred to in sub-section (1) has sublet the same, the landlord of the lodgers, tenants, or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building or room.
- "(4) It shall be incumbent on every tenant, lodger, or other inmate of a building or room to vacate on being required by the owner so to do in pursuance of any requisition made under sub-section (1).

"ROOF GUTTERS AND DOWN-PIPES OR PLATFORMS.

Provision, &c., of roof-gutters and down-pipes or masonry platforms.

"244Z. (1) The Commissioners may by written notice, require the owner or occupier of any building—

- "(a) to provide and maintain a sufficient number of suitable roof-gutters and down-pipes or masonry platforms for carrying water from the roof of the building into such drains as may be specified in the notice, or
- "(b) to renew, alter, repair, or remove any such gutters, pipes, or platforms already provided for the building.
- "(2) The said gutters must be of such dimensions and have such slope, and the said pipes must be of such dimensions, and the bends in such pipes must be made at such angles, as may be prescribed by rules made by the Commissioners at a meeting."

Insertion of new sections, 248A to 248E.

18. After section 248 of the said Act, the following shall be inserted, namely:—

1000. Aot 1. "REVETTING, TURFING, AND SLOPING.

- "248A. If it appears to the Commissioners that the condition or the situation

 Power to require revetting, of any land, being private property, is such as to
 turfing, or sloping. threaten the stability or security of any hillside or
 bank, or any immoveable property thereon, the Commissioners may, by written
 notice, require the owner of the land to do all or any of the following things,
 namely—
 - "(a) to construct and maintain a revetment, retaining-wall, or toe-wall upon any part of the land.
 - "(b) to re-construct, enlarge, strengthen, alter, or repair any revetment, retaining-wall, or toe-wall already standing on the land;
 - "(c) to turf the land or any portion thereof;
 - "(d) to slope the land or any portion thereof.
- Execution of work where owners of adjacent property would be benefitted.

 "248B. If any owner to whom a notice is issued under section 248A regreements to the Commissioners, within fifteen days after the service of the notice, that the work required by the notice will directly and substantially benefit the owners of any adjacent buildings or land,
- "the Commissioners may, after hearing all the owners concerned, themselves cause the said work to be executed;
- " and the expenses thereby incurred shall be recovered from any or all of such owners, in such proportions as the Commissioners may direct.
- "248C. If it appears to the Commissioners that buildings or lands belonging Power to execute works in to two or more owners can be protected, by the execution of works of the nature referred to in section 248A, more economically or advantageously in combination than separately.
- "the Commissioners may themselves cause such works or any of them to be executed, maintained, and kept in repair;
- "and the expenses thereby incurred shall be recovered from the said owners, in such proportions as the Commissioners may direct.
- "248D. Notwithstanding anything contained in section 248A, the Comflower to execute works where public road, drain, revetment, or retaining-wall is affected. "re constructed, enlarged, strengthened, altered, or repaired on any private land immedia ely abutting upon any public road, drain, revetment, or retaining-wall;
- "and the expenses thereby incurred shall be paid by the Commissioners and the owner of such land, in such proportions as the Commissioners may direct.
- "248E. Whenever any revetment, retaining-wall, or toe-wall is to be constructed, altered, or and sloping.

 ted are constructed, enlarged, strengthened, altered, or repaired, or any land is to be turfed or sloped, in pursuance of section 201D, section 210B, section 210C section 248B, section 248B, the work shall be executed in accordance with the rules contained in Schedule D, so far as they are applicable to the particular case."

Insertion of new sections 272 A to 272 E.

19. After section 272 of the said Act, the following shall be inserted, namely:—

Fine for certain offences.

- " 272A. Whoever-
- "(a) contravenes any provision of any of the clauses of this Act mentioned in the first column of the following table, or
- "(b) fails to comply with any requisition lawfully made upon him, or any direction lawfully given to him, under any of the said clauses.
- "shall be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

"Explanation.—The entries in the second column of the following table, headed 'subject,' are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are inserted merely as references to the subject of the clause, the number of which is given in the first column.

	1		2	3
Clauses.			Subject.	Fine which may be imposed.
Section	201D	***	Requisition to re-construct, &c., a private road or bridge.	Five hundred rupees.
*1	201 E		Requisition to provide and maintain, or to enlarge waterway.	Two hundred and fifty rupees.
,,	201 F	•••	Construction, &c., of private road or bridge.	Two hundred and fifty rupees.
**	20 1G	•••	Requisitiou to close a private road	Two hundred and fifty rupees.
"	207A,	clause (h)	Requisition to remove débris falling upon or into a private road or drain.	Fifty rupees.
,,	210B	•••	Requisition to take down a building, &c., where buildings, &c., threaten the stability of other immoveable property.	Five hundred rupees.
>1	210C	•••	Requisition to take down a building, &c., where hillside or bank threatens the safety of buildings.	Five hundred rupees
,,	224C	•••	Requisition to re-construct, &c., a private drain	Two hundred and fifty rupees.
"	227	•••	Requisition to provide a drain	Two hundred and fifty rupees.
17	229A	•••	Construction, &c., of private drain	Two hundred and fifty rupees.
**	236,	sub-sec- tion (1).		Twenty-five rupees.
,,	236,	sub - sec- tion (2).	1	Twenty-five rupees.
13	244E	, sub - sec- tion (1).		Fifty rupees.
11	244F	***	Sending written notice to Commissioners after completion of building work.	Fifty rupees.
,			sioners after completion of building	B, C,—148.

	I	2	, 3	
	Clauses.	Subject.	Fine which may be imposed.	
Section	244Q, sub - sec- tion (1)	Sending written notice to Commis- sioners before commencing building work.	Twenty-five rupees.	
11	244T, sub - scc- tion (1).	Requisition to stop work pending decision of Magistrate.	Five hundred rupees.	
31	244V, sub - sec- tion (1).	Prohibition of occupation of unsafe building.	Two hundred and fifty rupees in the case of a masonry or framed building, and twenty-five rupees in the case of a hut.	
1)	244V, sub - sec- tion (2).	Prohibition of occupation of insanitary building.	Fifty rupees.	
•,	244X, sub - sec- tion (2).	Using building declared unfit for human habitation,	Fifty rupees.	
n	444Y, sub - sec- tion (1).	Requisition to abate overcrowding in building or room,	Fifty rupees.	
11	244Y, sub - sec- tion (4).	Requisition to vacate overcrowded building or room.	Ten rupees.	
1)	244Z, sub - sec- tion (1).	Requisition to provide, repair, &c., roof-gutters and down-pipes or masonry platforms.	One hundred rupees	
1,	248A	Requisition to construct revetment, &c.	Five hundred rupees,	
,,	248E	Revetment turfing, and sloping	Two hundred and fifty rupees.	

[&]quot;continues to neglect to comply with the said requisition or direction,

[&]quot;shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

[&]quot;Explanation.—The entries in the second column of the following table, headed 'Subject,' are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are

inserted merely as references to the subject of the clause, the number of which is given in the first column.

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	1	•	2	3
	Claus	ses.	Subject.	Daily fine which may be imposed.
Section	201D	•••	Requisition to re-construct, &c., a private road or bridge.	One hundred rupees.
**	201E	•••	Requisition to provide and maintain, or to enlarge, waterway.	Fifty rupees.
19	201G	•••	Requisition to close a private road	Fifty rupees.
1	207A,	clause(<i>b</i>)	Requisition to remove débris falling upon or into a private road or drain.	Ten rupees.
11	210B	•••	Requisition to take down a building &c, where buildings, &c, threaten the stability of other immoveable property.	One hundred rupees.
n	210C		Requisition to take down building, &c. where hiliside or bank threatens the safety of buildings.	One hundred rupees.
	224C	•••	Requisition to re-construct, &c a private drain.	Fifty rupees.
19	227		Requisition to provide a drain.	Fifty rupees.
ŋ	244V,	sub-sec- tion (1)	Prohibition of occupation of unsafe building.	Fifty rupees in the case of a masonry or framed building, and five rupees in the case of a hut.
11	244V,	sub-sec- tion (2)	Prohibition of occupation of insanitary building.	Ten rupees.

Fine for unlawfully commencing, carrying on, or completing work.

"272C. If any work referred to in section 201C, sub-section (1), or section 224B, sub-section (1), or the erection, re-erection. or material alteration of any building—

- "(a) is commenced without obtaining the permission of the Commissioner, or (where an appeal or reference has been made to the Engineer appointed under section 351D) without waiting until the Commissioners have received the orders of the Engineer, or in contravention of any orders passed by him, or
- "(b) is carried on or completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or
- "(c) is carried on or completed after such permission has been withdrawn or
- "(d) is carried on or completed in breach of any provision contained in this Act, or in any rules or bye-laws made hereunder, or of any condition,

modification, direction, or requisition lawfully imposed, made, or given under this Act or such rules or bye-laws, or

"if any alterations required by any notice issued under section 244H be not duly made,

"the owner shall be liable to fine which may extend, in the case of a road, bridge, drain, or masonry or framed building, to five hundred rupees, and, in the case of a hut, to fifty rupees, and

"to further fine which may extend, in the case of a road, bridge, drain, or masonry or framed building, to one hundred rupees, and in the case of a hut, to ten rupees, for each day after conviction during which the offence is continued.

Fine for disobedience of direction for demolition or alteration where work unlawfully commenced, carried on, or completed.

"272D. If any person to whom a direction to demolish or alter work is given under clause (i) of section 244S fails to obey the same, he shall be liable

"to fine which may extend, in the case of a road, bridge, drain, or masonry or framed building, to five hundred rupees, and, in the case of a hut, to fifty rupees, and

"to further fine which may extend, in the case of a road, bridge, drain, or masonry or framed building, to one hundred rupees, and, in the case of a hut, to ten rupees, for each day after conviction during which he so fails.

"272E. When a building has been erected, re-erected, or materially altered under this Act without any statement having been made under rule 23 or rule 28 of Schedule C, that it was intended to use the building or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed or cow-house then any person using the building or any part thereof for any of those purpose shall be liable.

- "(a) in the case of a masonry or framed building, to fine which may extend to two hundred rupees, and to further fine which may extend to twenty rupees for each day after conviction during which he continues such use, and,
- "(b) in the case of a hut, to fine which may extend to twenty rupees, and to further fine which may extend to five rupees for each day after conviction during which he continues such use.

Insertion of new sections 350A and 350B.

20. For section 350A of the said Act, the following shall be substituted, namely:—

- "350A. (1) The Commissio ers, at a meeting which has been convened exAdditional power to make pressly for the purpose, and of which due notice has been given, may, from time to time, make bye-laws for enforcing, prohibiting, or regulating the doing of any act which may, in the opinion of the Commissioners affect the stability or security of any hillside or bank, or any immoveable property thereon.
- "(2) In particular, and without prejudice to the generality of the foregoing power, the Commissioners at a meeting as aforesaid may make bye-laws for all or any of the following purposes, namely:—
 - "(a) prohibiting or regulating the making of excavations, the cutting of hillsides or banks, and the removal of soil from hillsides or banks;
 - "(b) prohibiting or regulating quarrying;
 - "(c) prohibiting or regulating the removal of stones from hillsides, banks, ihoras, or sites of landsilps;
 - "(d) for preventing or regulating the grazing or straying of cattle on hillsides or banks;
 - "(e) for preventing the straying of poultry;

"(f) for enforcing or regulating the cutting, trimming, or removal of trees, shrubs, bamboos, bushes, or hedges bordering on, overhanging, or obstructing any road or drain, or causing, or being likely to cause, damage or injury to any road or drain, or to any person using any road;

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- "(g) for enforcing, regulating or prohibiting the cutting or destroying of trees, shrubs, bamboos, or plants;
- "(h) for enforcing, regulating, or prohibiting the making of, or for regulating the maintenance of, gardens or garden-terraces;
- "(j) for prohibiting or regulating the making of holes or the placing of hoose earth for or around trees, shrubs, bamboos, or plants;
- "(k) for enforcing or regulating the planting and maintenance of particular kinds of trees, shrubs, bamboos, or plants on land, where, in the opinion of the Commissioners, such enforcement or regulation is necessary or desirable with a view to the better protection of any hillside or bank from landslips.
- "(3) The word 'cattle,' as used in clause (d), shall have the same meaning as in the Cattle Trespass Act, 1871.*
- "350B. The Commissioners may, by any bye-law made under section 350A, Fines for breach of bye-laws declare that any person committing a breach of any such bye-law, or failing to comply with any notice issued thereunder shall be liable to fine which may extend to fifty rupees, and to further fine which may extend to twenty rupees for each day after conviction during which the offence is continued."

Insertion of new sections, 351B to 351H. 21. After section 351A of the said Act, the following shall be inserted, namely:—

"351B. (1) The Local Government may make rules to regulate any of the Power to make rules for the amendment of Schedules A, B, C, and D. matters referred to in section 201F, 229A, 237, and 248E, and may by such rules alter, add to, or cancel any of the rules contained in Schedules A, B, C, and D, respectively.

"(2) All references in this Act to any of the aforesaid schedules shall be construed, as referring to such schedule as for the time being amended in exercise of the powers conferred by sub-section (1).

"351C. The Commissioners, or any officer in receipt of a salary of not less Power of entry to inspect, than fifty rupees per mensem who may be authorized by survey, or execute work. It m in that behalf, may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection, survey, measurement, valuation, or inquiry or execute any work which is authorized by any of the clauses enacted by the Darjeeling Municipal Act, 1900, or by any rule or bye-law made under any such clause, or which it is necessary, for any of the purposes or in pursuance of any of the provisions of any such clause, rule, or byelaw, to make or execute.

"Provided as follows:-

- "(a) except when it is in this Act otherwise provided, no such entry shall be made between sunset and sunrise;
- "(b) except when it is in this Act otherwise provided, no dwelling-house, and no hut which is used as a dwelling-place; shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least six hours' previous written notice of the intention to make such entry:
- "(c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the

inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;

"(d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Appeal to specially appointed Engineer.

"351D. (1) The Local Government may, by notification in the Calcutta Gasette, appoint an Engineer to hear appeals under this Acc.

- "(2) An appeal shall lie to the said Engineer from any order (not being an order apportioning expenses) or requisition made under section 201C, sub section (4), section 210, section 210B, section 210C, section 224B, sub-section (3), section 228, section 239, clause (b), section 243, clause (b), section 244E, sub-section (2), section 244H, sub section (1) or sub-section (3), section 244L, clause (b), section 244Q, sub-section (2), section 244V, section 248A, section 248B, section 248C, or section 248D.
- "351E. An appeal shall lie to the Commissioner of the Division from any order apportioning expenses incurred in pursuance of section 228, section 218B, section 248C, or section 248D. Appeal to Commissioner of the Division.
 - Limitation of time for appeal.
- "351F. Every appeal under section 351D, or section 351E must be presented within a period of thirty days after the date of the order or requisition against which the appeal is made:
 - " Provided as follows :-
 - "(a) if in any case the said period expires on a day when the office of the aforesaid Engineer or Commissioner is closed, the appeal may be presented on the day that the said office is re-opened;
 - "(b) any appeal may be admitted after the expiration of the said period when the appellant satisfies the appellate authority that he had sufficient cause for not presenting the appeal within such period.
- "351G. (1) In dealing with any appeal preferred to him under section 351E, Assessors in appeals to Com. the Commissioner shall be assisted by two assessors, missioner of the Division. who shall be selected and summoned by him for each appeal or group of appeals from a list to be prepared annually by the Deputy Commissioner:
- "Provided that, if any assessor so summoned fails to appear, the appeal may be heard in his absence.
- "(2) The assessors, if present, shall be consulted by the Commissioner, and their opinion shall be recorded in writing; but the Commissioner shall not be bound to conform to their opinions.
- "351H. (1) If the Engineer appointed under section 351D, or the Commis-Record of decision on appeal sioner of the Division, rejects any appeal preferred to or reference. him under this Act, he shall, by written order, specifically state the grounds for such rejection,
- "(2) The said Engineer shall, when deciding any reference made to him under this Act, specifically state in writing the grounds for his decision.
- "(3) A copy of all orders passed by the said Engineer or Commissioner on any such appeal, or by the said Engineer or any such reference, shall forthwith be forwarded by him to the Commissioners, who shall thereupon inform the appellant, or the person who made the reference, as the case may be, of such orders.

Addition of new Schedules, A to D.

22. After the Sixth Schedule to the said Act, the Schedules marked respectively A, B, C, and D shall be added.

23. [Repealed by Act I. of 1903.]

PART II.—TEMPORARY PROVISIONS.

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'24 to 28. [Repealed by Act 1. of 1903.]

SCHEDULE A.

RULES AS TO PRIVATE ROADS AND BRIDGES.

(See sections 201C, 201F, and 351B.)

Part I .- Roads.

- 1. (1) Every application for permission to construct, reconstruct, or alter a

 Application for permission to private road other than a footpath must be accompanied by—

 a private road.
 - (a) a plan of the road, showing cross-sections,
 - (b) type-drawings of all bridges to be provided or already provided for the road, and
 - (c) a description of the prevision which it is intended to make or which already exists in respect of retaining-walls and revetments (if any) and drainage.
- (2) Every application for permission to construct, reconstruct, or alter a private footpath must be accompanied by a full description of the path.

Slope.

- 2. (1) A private road must be so constructed as to have a slope inwards towards the hillside.
- (2) Such slope must be not less than the gradient of the road.
- 3 (1) Whenever the Commissioners so direct, the outer edge of a private road
 Retaining walls and revetments.

 must be pretected by retaining-walls, and the inner
 cutting by reverments.
- (2) Such walls and revetments must be efficient number, and must be placed in such positions as the Commissioners may direct, and must be constructed in accordance with the rules contained in Schedule D.

Drain

4. A stone-lined drain must be provided on the inner side of a private road, where such side is not rock.

Part II .- Bridges.

Application for permission to construct, reconstruct, or alter a private bridge.

- 5. Every application for permission to construct, reconstruct, or alter a private bridge must be accompanied by drawings of the bridge.
- 6. A private bridge must be constructed so as to leave sufficient waterway to pass the maximum discharge of the channel spanned by the bridge.
- 7. The flooring placed in the bed of the channel under a private bridge must, as far as practicable, be laid at the same slope as that of the channel.
- 8. When a pocket for the deposit of débris is cut in the hillside above a private bridge, otherwise than in solid rock, such pocket must be lined with masonry walling.
- 9. Where a small drain is crossed by a private road, a wooden or iron grating Substitution of gratings for must, if the Commissioners so direct, be laid over the culverts.

 drain, instead of a covert culvert.

SCHEDULE B.

RULES AS TO PRIVATE DRAINS.

(See sections 224B, 229A, and 351B.)

Construction of drains for sullage-water must be construct-sullage water.

- (a) with round or half-round tiles bedded in concrete, or
- (b) with U-shaped stone masonry set in lime mortar and plastered over the inner surface with Portland cement, or
- (c) with U-shaped stone concrete.
- 2. (1) Drains for surface-water only may be constructed either of dry rubble

 Construction of drains for masonry or of any other material approved by the surface-water

 Commissioners and may be either rectangular or U-shaped or V-shaped in section.
- (2) Such drains shall not be connected with any drain carrying sullage-water or sewage.
 - 3. Except with the written permission of the Commissioners, no covered drain shall be constructed and no open drain shall be covered in.
 - 4. The sectional area of every drain shall be subject to the approval of the Sectional area.

 Commissioners.
 - 5. (1) Drains must discharge into the nearest water-channel or public drain, Unicharge. unless in any case the Commissioners otherwise direct,
- (2) The outfall of a drain into a water-channel or public drain must be protected and guided in such manner as the Commissioners may direct.
- (3) Where the drain of a private road joins the drain of a public road, the former drain must be so directed or so protected by strike-boards as to minimise the risk of damage to the public drain or road.
- Or block of such buildings, and the site must be sloped framed building.

 Or block of such buildings, and the site must be sloped from all sides towards such drain.

SCHEDULE C.

Rules as to the Use of Building-sites and the Execution of Buildingwork.

[See sections 238, 239, 240, 243, 244B, 244C, 244F, 244L, 244O, 272E, and 351B.]

Part I.—Definitions.

- r. In this Schedule, unless there is anything repugnant in the subject or Definitions.
 - (a) the word "base," as applied to a wall, mca: s the under side of the course immediately above the footings of the wall;
 - (b) "nogging" means lime or cement concrete, or brick work in lime or cement mortar, which is filled in between the frames of iron or wood in a framed building;
 - (c) "party-wall" means a wall forming part of a building and used or constructed to be used for the support and separation of adjoining buildings belonging to different lowners, or constructed or adapted to be occupied by different pirsons; and
 - (d) "topmost storey" means the uppermost storey in a building, whether constructed wholly or partly in the roof or not, and whether constructed, used, or adapted to be used, for human habitation or not,

Part II .- Building-sites.

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- 2. (1) When any application is made for approval of a site for the erection,

 Certificate by Engineer as to re-erection, or material alteration of a masonry or site.

 framed building, or when any application for permission to erect, re-erect, or materially alter a hut, involves the approval of a site, the Commissioner shall refer the application to the Municipal Engineer, who shall certify—
 - (a) whether, in his opinion, the site is reasonably secure from danger from hillside slips, either from above or from below, or could be made secure as aforesaid by the addition of protective works, and
 - (b) whether, in his opinion, if the site be built upon as proposed. the stability or security of any hillside or bank, or any immoveable property thereon, would be threatened by the building, or could be ensured by the addition of protective works.
- (a) If the said Engineer certifies that the site is not secure as aforesaid, or that the stability or security of any hillside, bank, or property would be threatened by the proposed building, or that the addition of protective works is necessary,

and if the Commissioners consider that the site ought nevertheless to be approved or that the said protective works need not be added,

the Commissioners shall refer the matter to the Engineer appointed under section 351D, and shall deal with the application in accordance with his decision.

- (3) If protective works have to be added as aforesaid to any site, the site shall not be approved until such works have been constructed and have received the written approval of the Commissioners.
- 3. Every building erected or re-rected, and every material alteration made to a building, must have such architectural feature as to prevent the building being, in the opinion of the Commissioners, unsightly or unsuitable to its surroundings.
- 4. (1) Except with the special sanction of the Commissioners, no building

 Buildings of more than three shall be erected or re-erected so as to have more than three storeys.
- (2) When any such sanction is given, the materials and method of construction of the building must be such as may be prescribed by the Commissioners.
 - 5. The floor or lowest floor or every building erected or re-erected from the ground-level must be constructed at such level as will admit of—
 - (a) the construction of a drain sufficient for the effectual drainage of the building, and placed at such level as will admit of the drainage being led into some drain at the time existing or projected, and
 - (b) there being a ventilated air-space of at least six inches in depth between the under side of the floor-joists and the ground-level.

Building over drain.

 A building shall not be placed over any drain, except with the written permission of the Commissioners.

Part IV .- Masonry Buildings and Framed Buildings generally.

Foundation.

7. The foundation of a masonry or framed building must rest on solid ground or rock.

- 8. (1) The projection of the bottom of the footings on each side of each wall of a masonry or framed building must be at least one-forth of the thickness of the wall at its base.
- (2) The height from the bottom of such footings to the base of each wall must be at least two-thirds of the thickness of the wall at its base.
- (3) Except where the foundation is a rock, the bottom of such footings shall not be less than three feet below the ground-level.

(4) When a wall is built on rock, footings may be omitted if the surface of the rock is properly cleaned and stepped to receive the first course of masonry.

external and cross walls of a g. The external and cross walls of a masonry or one-storeyed building.

9. The external and cross walls of a masonry or framed building of one storey must be built of—

- (a) stone or brick bedded in lime or cement mortar,
- (b) stone or brick bedded in mud mortar, or
- (c) timber or iron framing filled in with nogging, or covered with corrugated or plain iron, or planked:

Provided that, when stone or brick bedded in mud mortar is used, those portions of the walls around doors and windows, and under the wall-plates for one foot in depth, and in the foundations up to plinth-level, must be of stone or brick bedded in lime or cement mortar.

- External and cross walls of a two-storeyed building.
- 10. (1) The external and cross walls of the lower storey of a masonry or framed building of two storeys must be built of—
- (a) stone or brick bedded in lime or cement mortar, or
- (b) timber or iron framing filled in with nogging, or covered with corrugated or plain iron:

Provided as follows :-

- (i) if any of the said external walls do not support any masonry wall in the upper storey, they may be built of nogging, instead of as prescribed in clause (a); and
- (ii) if any of the said cross walls are intended for partitions only, and do not support any wall in the upper storey, they may be built of nogging or of timber framing planked with boards.
- (2) The external and cross walls of the upper storey of a masonry or framed building of two storeys must be built of the materials specified in clause (a) or clause (c) of rule 9.
- External and cross walls of a three-storeyed building.
- storey of a masonry or framed building of three storeys must be built of—
- (a) stone bedded in lime or cement mortar, or
- (b) iron framing covered with corrugated iron, or filled in with nogging;

and the external and cross walls of the storey next above the lowest storey of such a building must be built of-

- (i) stone or brick bedded in lime or cement mortar, or
- (ii) timber or iron framing filled in with nogging, or covered with corrugated iron:

Provided that, if any of the cross wills in either of the said storeys are intended for partitions only, and do not support any wall in the storey above, they may be built of planked timber framing.

- (a) The external and cross walls of the topmost storey of a masonry or framed building of three storeys must be built of—
 - (i) stone or brick bedded in lime or cement mortar, or
 - (ii) timber or iron framing filled in with nogging, or covered with corrugated or plain iron, or planked.
- Party-walls of a masonry or framed building must be built of stone or brick bedded in lime or cement mortar for their full height; and if the Commissioners so direct, must be carried up, of a thickness of not less than nine inches, above the roof, flat, or gutter to such a height as will give a distance of at least eighteen inches measured at

right angles to the slope of the roof above the highest part of the roof, flat, or gutter.

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- 13. (1) Every wall of a masonry or framed building must have a damp-proof course at or above the level of the ground-floor,
- (2) Such damp-proof course may consist of sheet lead, asphalt, slates laid in cement, vitrified bricks, or any other durable material impervious to moisture.

Roofs.

14. (1) The roof of every masonry or framed building must be constructed of corrugated or plain iron, lead, slates, or tiles:

Provided that, with the written permission of the Commissioners, any such roof may be constructed of shingles securely attached to a frame of iron or timber.

- (a) The rise of the roof shall not in any case be less than one-eighth of the span.
- 15. The floors of every massonry or framed building must be constructed to bear safely the maximum load to be carried, such load being taken, in the case of planked floors, as not less than sixty pounds per square foot, including the weight of the floor.
 - 16. (1) All beams and girders in a masonry or framed building must be supported by a breadth of brick-work, stone, or other solid substance sufficient to secure their stability.
- (2) The bearing of a beam or girder on a wall shall not, without the sanction of the Commissioners, be less than three fourths of the thickness of the wall.
- 17. All iron posts, girders, or joists, or other iron work used for the support of any portion of a masonry or framed building, must be of such quality and strength as are approved by the Commissioners.

Part V .- Dwelling-houses.

- 18. (1) Except with the written permission of the Commissioners, no dewelling

 Free passage about dwelling

 lended or permission of the Commissioners, no dewelling

 lended so that any external wall thereof is in any direction at a distance less than—
 - (a) twenty feet from any part of any adjacent building, or
 - (b) ten feet from the boundary of the holding on which the house stands, or
 - (c) four feet from the side of any public road, or
 - (d) three feet from the toe of any bank or retaining wall.
- (2) The said permission shall not be granted unless the Commissioners are satisfied that notice of the intention to apply for it has been given to the neighbouring proprietor or his agent, and shall not be refused except on sanitary or other public grounds.
- (3) If the said permission be granted, the Commissioners shall send a copy thereof, both to the applicant and to the said neighbouring proprietor.
- 19. Every person who erects or re-erects out-houses, or ranges or blocks of out-houses, whether the same are to be used as dwellings or stables, or for any other purpose in connection with a dwelling-house, must build the same—
 - (a) so that they may stand in regular lines, with a free passage or way, in front of and between every two lines, of such width as the Commissioners may direct, for ventilation, and for facilitating scavenging; and
 - (b) with such and so many privies, latrines, or urinals, and such means of drainage, as the Commissioners may require; and

(c) at such level as will suffice for the means of drainage required by the Commissioners.

Ventilation of rooms of dwelling-house.

- 20. Every room in a dwelling-house-
- (a) must be so constructed that the whole of at least one side of the room either is an external wall, or abuts on a verandah or
- (b) must have suitable and sufficient sky-lights and roof ventilation.

Size and ventilation of inhabited rooms.

21. Every room in a dwelling-house which is intended to be used as an inhabited room—

- (a) must be in every part not less than eight feet in height from floor to ceiling, or, in the case of a room in the roof, must have an average height of not less than seven feet from floor to ceiling;
- (b) must have a clear superficial area of not less than eighty square feet;
- (c) must be ventilated by means of doors or windows which open directly into a verandah or the external air, and which have an aggregate opening, clear of the framing, equal to not less than one-tenth of the superficial area of the floor of the room.
- Part VI.—Applications for approval of sites for, and for permission to erect, re-erect, or materially alter, musonry baildings or framed buildings.
- Application for approval of a masonry or framed building must be written on a printed form (to be supplied by the Commissioners free of charge), and must state the position of the site, the number assigned to it in the valuation and rating list, its dimensions, and such other particulars as may be prescribed by the Commissioners.
- (2) The site-plan sent with such an application must be drawn to a scale of not less than one fiftieth of an inch to a foot, must be sent in duplicate, and must show—
 - (a) the boundaries of the site;
 - (b) the position of the site in relation to neighbouring roads, hillsides, and banks:
 - (c) the angle and the character of the hillsides or banks occupied by, and abutting on, the site;
 - (d) whether the site is wooded or not;
 - (e) what springs and jhoras (if any) there are on the site;
 - (f) what excavations (if any) it is proposed to make on or near the site;
 - (g) what protective works (if any) it is proposed to construct on, or for the support of, the site;
 - (h) the name of the road (if any) in which the building is proposed to be situated;
 - (i) the position of the building in relation to-
 - (i) the boundaries of the site, and
 - (ii) all adjacent roads, buildings, and premises within a distance of forty feet of the site, or
 - (iii) (if there is no road within a distance of forty feet of the site) some existing or projected road;
 - (k) the means of access to the building from the road;

(1) the position, form, and dimensions of privies, urinals, drains, stables, cattle-sheds, cow-houses, and other appurtenances of the building, and the inclination of such drains:

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- (m) free passage or way in front of the building;
- (n) space to be left about the building to secure a free circulation of air, admission of light, and access for scavenging purposes;
- (o) the width and level of the road (if any) in front and of the road (if any) at the rear of the building; and
- (p) such other particulars as may be prescribed by the Commissioners.
- (3) The foregoing sub-rules shall apply also in the case of applications for permission to materially alter a masonry or framed building in the manner indicated in clause (b) of section 238, in so far as the said sub-rules are capable of application to the intended alteration.
- Application to be sent and particulars furnished by person intending to erect, re-erect, or materially alter a masonry or framed building.

23. (1) Every application for permission to erect or re-erect a masonry or framed building must be written on a printed form (to be supplied by the Commissioners free of charge), and must state the description of the building, its dimensions and such other particulars as may be prescribed by the Commissioners.

- (2) The plan of the building and the elevations and sections accompanying such an application must be nearly and accurately drawn to a scale of not less than one-eig th of an inch to a foot, must be fully dimensioned, and must be sent in duplicate, and the said plan must show-
 - (a) the levels and width of the foundation of the building;
 - (b) the level of the lowest floor of the building; and
 - (c) the level of all open spaces in the building or premises, and the plinth level of buildings with reference to the level at the centre of the nearest road.
- (3) The specification accompanying such an application must comprise full information as to the following particulars, namely :-
 - (i) the materials and method of construction to be used for external walls, party walls, foundations, roofs, floors, fire-places, and chimneys;
 - (ii) the manner in which roof and house drainage and the surface-drainage, of land will be disposed of;
 - (iii) the manner, if any, in which it is proposed to pave the open spaces in the building or premises, and the slope to which the surface is to be made in each case;
 - (iv) the purpose for which it is intended to use the building;
 - (v) if the building is intended to be used as a dwelling-house for two of more families, or as a place for carrying on any trade or business in which more than twenty people may be employed, or as a place of public resort, the means of ingress and egress; and
 - (vi) such other particulars as may be prescribed by the Commissioners.

Explanation to clause (iv) .- If it is intended to use the building or any part thereof or any of the purposes specified in section 261, or as a stable, cattle-shed. or cow-house, the fact must be expressly stated.

- (4) The foregoing sub-rules shall apply also in the case of applications for permission to materially alter a masonry or framed building, in so far as they are capable of application to the intended alteration.
- 24. (1) The plans, elevations, and sections referred to in section 240 must be signed clearly and in a prominent place by the owner Signature of plans, elevations, of the building. and sections.

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- (2) If the said documents have been prepared by an Architect or an Engineer they may be signed by him as well as by the owner.
- 25. (1) Within thirty days after the receipt of any application under section

 Power to require further in. 238 or section 240, the Commissioners may require the formation. applicant to furnish them with any information which has not already been given in the documents received.
- (2) If any information required under sub-rule (1) is in the opinion of the Commissioners, incomplete or defective, they may, within thirty days after the receipt of the same, require further information to be furnished.
- (3) If any requisition made under sub-rule (1) or sub-rule (2) is not complied with within three months, the application received under section 238 or section 240, as the case may be, shall be deemed not to have been made.
- 26. (1) When the Commissioners have approved any site-plan or given perModification, signature, and disposal of plans.

 mission to execute any work, any modifications which they may have directed to be made in such site-plan, or in any of the approved plans of the work, shall be entered on both copies of the plan, and the copies shall be signed on behalf of the Commissioners.
- (2) One of the signed copies of each plan shall then be returned to the applicant, and the other shall be kept in the Office of the Commissioners.

Part VII.-Huts.

Prohibition of projections or dropping of water over road or passage.

Every that abutting on a road or passage, whether public or private, must be constructed so as not to project over, or admit of water from the roof falling upon or injuring the road or passage.

Part VIII.—Applications for permission to erect, re-erect, or materially alter

- 28. (1) Every application for permission to erect, re-erect, or materially alter
 Application for permission to a hut must be written on a printed form (to be supplied by the Commissioners free of charge), and must contain a description of the site.
- (2) If it is intended to use the hut or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed, or cow-house, the fact must be expressly stated in the said application.
- 29. (1) When any application under section 244 J has been received, the Power to require further information. Commissioners may require the applicant to furnish them with any additional information which they may consider it necessary to obtain.
- (2) If any information required under sub-rule (1) is, in the opinion of the Commissioners, incomplete or defective, they may require further information to be furnished.
- (3) If any requisition made under sub-rule (1) or sub-rule (2) is not complied with within two months, the application received under section 244 shall be deemed not to have been made.

SCHEDULE D.

1900.

RULES AS TO REVETMENTS, RETAINING-WALLS, TOE-WALLS, TURFING, AND SLOPING.

Act 1

(See sections 248E and 351B and Schedule A, rule 3.)

Part I .- Revetments, Retaining-walls, and Toe-walls.

- 1. (1) The foundation of every revetment, retaining-wall, or toe-wall, must be taken down to original and firm soil or rock; and the bed-line must be cut at right-angles with the face of the revetment or wall.
- (2) The building of any revetment, retaining-wall or toe-wall, shall not be commenced until the foundation and bed-line have been inspected and approved by the Commissioners.
 - 2. (1) A revetment, retaining-wall, or toe-wall, may be made of dry rubble masonry but must, in any case in which the Commissioners so direct, be made of lime masonry.
 - (2) No stone used shall be of greater height than its length of breadth.
 - 3. All stones used must be laid on their natural beds, and must be arranged Laying of stones. so as to break joint as far as may be possible.
 - 4. (1) One through bonding-stone or line of bonding-stones must be inserted at intervals of five feet in each course, and at points intermediate between the corresponding bonding-stones of the course below.
- (a) Any of the bonding-stones which do not extend right through the wall must overlap each other for one-third of their length.
 - 5. Every revetine t, retaining-wall, or toe-wall, must be built up solid to full section and spawls or chips shall not be used for filling the courses unless their use is unavoidable.
 - 6. Weep-holes mu.t be provided at intervals of four feet horizontally and four feet vertically, beginning with the course immediately above ground-level.
- 7. (1) Where a revetment, retaining-wall, or toe-wall, does not exceed twenty feet in height, and is not surcharged, the mean thickness of the revetment or wall above the footings shall not be less than one-third of the vertical height of the revetment or wall, measured from the top of the footings:

Provided that the width at the top shall in no case be less than one foot six inches, and need not in any case exceed three feet six inches.

- (2) Where a revetment, retaining-wall, or toe-wall, does not exceed twenty feet in height, and is surcharged, sub-rule (1) shall apply, the height being assumed, for the purposes of that 'ub-rule, to be one-and-a-half times the vertical height.
- (3) Where a revetment or retaining-wall exceeds twenty feet in height, detailed designs must be submitted to the Commissioners, and the sections must be such as the Commissioners may approve.

Part II .- Sloping.

8. When, n pursuance of any requisition or direction made or given by the Commissioners, any slope is to be reduced, the angle to which the slope is reduced shall not be greater than 37°.

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SCHEDULE E.

[Repealed by Act 1. of 1903.]

SCHEDULE F.

[Repealed by Act I. of 1903.]

SCHEDULE G.

[Repealed by Act 1. of 1903.]

BEN. ACT NO. III. OF 1900.

The Bengal Cruelty to Animals Act, 1900.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 3rd April, 1900, and of the Governor-General on the 27th April, 1900.)

An Act to amend Bengal Act I. of 1869 (an Act for the prevention of cruelty to animals).

WHEREAS it is expedient to amend Bengal Act I, of 1869 (an Act for the prevention of cruelty to am nals);

It is hereby enacted as follows:--

1. For section 1 of Bengal Act I. of 1869 (an Act for the preven-Amendment of section 1. tion of cruelty to animals) the following shall of Bengal Act I. of 1869. be substituted, namely:—

Definition of "animal."

"I. In this Act the word 'animal' means any domestic or captured animal."

Amendment of section 5.

2. For section 5 of the said Act the following shall be substituted, namely:—

- "5. If any person employs in any work or labour any animal which by

 Penalty for employing animal reason of any disease, infirmity, wound, sore or o her cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.
- "5A. If any person performs upon any cow the operation called phúká, he
 Penalty for practising phúká. shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.
- "5B. (1) The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against this Act have been committed,

(2) The Magistrate before whom a prosecution for such an offence has been 1900. instituted may direct that the animal in respect of which the offence is proved to have been committed shall be sent for treatment and care Act 3. to an infirmary and be there detained until it is, in his opinion, again fit for the work or labour on which it has been ordinarily employed.

- (3) The cost of the treatment, feeding and watering of the animal in the infirmary hall be payable by the owner of the arimal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency town, the Commissioner of Police may from time to time prescribe.
- (4) If the owner refuses or neglects to pay such cost and to remove the animal within such time as the Magistrate referred to in sub-section (2) may prescribe, such Magistrate may direct that the animal te sold and that the proceeds of the sale be applied to the payment of such cost.
- (5) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him; but the owner sh Il not be liable to make any payment in excess of the proceeds of the sale.
- "5C. A prosecution for an offence against this Act shill not be instituted after the expiration of three months from the date of Limitation of prosecutions. the commission of the offence."

Short titles.

3. (1) This Act may be called the Bengal Cruelty to Animals Act, 1900.

(2) This Act, the aforesaid Bengal Act I. of 1860 and Bengal Act III. of 1869 (an Act to enable Police officers to arrest without warrant persons guilty of cruelty to animals) may be cited together as the Bengal Cruelty to Animals Acts, 1869 to 1900.

BEN. ACT NO. IV. OF 1900.

Calcutta Framways (Electric Traction) Act, 1900.

Passed by the Lieutenant-Governor of Bengal in Council.

(Received the assent of the Lieut nant-Governor on the 28th July, 1900, and of the Governor-General on the 14th August, 1900.)

An Act to give effect to an agreement made on the 9th December, 1899, between the Corporation of Calcutta and the Calcutta Tramways Company, Limited.

WHEREAS an agreement, a copy whereof is set forth in the Schedule to this Act, was made between the Corporation of Calcutta and the Calcutta Tramways Company, Limited, on the 9th December, 1899;

And whereas it is declared in the said agreement that the same shall be subject to sanction and authorisation by an Act of the Bengal Legislative Council to be thereafter passed for the purpose;

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And whereas it is expedient that such sanction and authorisation should be given;

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Calcutta Tramways (Electric Traction) Act, 1900.
- 2. The agreement, a copy whereof is set forth in the Schedule Sanction to the agreement. to this Act, is hereby sanctioned and authorised; and the concessions or contracts, dated
 respectively the 2nd October, 1879, and the 22nd November, 1879,
 and the agreement of the 2nd September, 1893, in such agreement
 mentioned, and the Calcutta Tramways Act, 1880, and the Calcutta
 Tramways Act, 1894, shall, so far as may be necessary to validate
 and give effect to such agreement, be extended, varied, or modified.

THE SCHEDULE.

Agreement, dated 9th December, 1899, between the Corporation of Calcutta and the Calcutta Tramways Company, Limited.

ARTICLES of Agreement made this ninth day of December, 1899, BETWEEN THE CORPORATION OF CALCUTTA constituted by and under the Calcutta Municipal Consolidation Act, 1888, of the Bengal Legislative Council, hereinafter called the Corporation of the one part, and THE CALCUTTA TRAMWAYS COMPANY, LIMITED, a Company incorporated under the English Companies' Acts, having its registered office at 11, Abchurch Lane, London hereinafter called the Com any, of the other part. WHEREAS, by two Concessions or Contracts the first thereof being dated the 2nd October, 1879, and made between the Corporation of the Town of Calcutta constituted by and ur der Act IV, of 1876 of the Bengal Legislative Council of the one part and Dillwyn Partish, Alfred Parrish and Robinson Souttar, in such Concession or Contract described and therein and herein after referred to as the grantees, of the other part, and the second Concession or Contract being dated the 22nd November, 1879, and made between the Chairman of the Municipal Commissioners of the Suburbs of Calcutta, a body created and rendered corporate by Act V. of 1876 of the Bengal Legislative Council, of the one part, and the said Dillwyn Parrish, Alfred Parrish and Robinson Souttar as grantees, of the other part, which Concessions or Contracts respectively received the sanction of the Lieutenant-Governor of Bengal and were further sanctioned by an Act of the Bengal Legislative Council entitled the Calcutta Tramways Act, 1880, the grantees, their heirs, executors, administrators and assigns were authorized to construct, maintain and use, in the manner, upon the terms and subject to the conditions and provisions in the said Concessions or Contracts respectively expressed and contained, certain lines of tramway therein respectively referred to in Calcutta and the Suburbs thereof respectively, and were also entitled, subject to the conditions and provisions in the said Concessions or Contracts respectively expressed and contained, to the exclusive right of laying and constructing, maintaining and using a tramway or tramways within the limits of the Calcutta Municipality and of laying, constructing, maintaining and using a tramway or tramways within the limits of the Calcutta Suburban Municipality. AND WHEREAS the Corporation are, under and by virtue of Act II. of 1888 of the Bengal Legislative Council, the successors of the Corporation of the Town of Calcutta, parties of the first part to the said Concession or Contract of 2nd October, 1879, and of the Chairman of the Municipal Commissioners of the Suburbs of Calcutta, party of the first part to the said Concession or Contract of the 22nd November, 1879, and the Company

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are the assignees of the grantees, parties of the second part to the said Concessions or Contracts of the 2nd October, 1879, and 22nd November, 1879, respectively. AND WHEREAS, by the said Concession or Contract of the 2nd October, 1879, it was agreed that in consideration of such Concession the grantees would pay rent at the several rates therein specified for the several periods in the said Concession or Contract mentioned. AND WHEREAS It was by the said Concession or Contract of the 2nd October, 1879, further agreed and provided that the Corporation of the town of Calcutta and their successors should have the right of purchasing the said tramways, with the plant, buildings, stores, rolling-stock and everything connected therewith, upon the expiration of twenty-one years from the commencement of the said Conces in or Contract, upon declaring their intention so to do in writing not less than six months before the expiration of the id twenty-one years, and should have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given, and the consideration for such purchase should be a cash payment of one and two-fifths of the amount of the invested capital of the said grantees or securities of the Government of Irdia or securities the interest where a should be guaranteed by the Secretary of State for India in Council or debentures of the said Corporation of such amount as to produce, at the rate of interest current on such securities, 7 per cent. per annum on the amount of the said invested capital, and, if the consideration for such purchase should be given in such securities as aforesaid, the grantees should be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramway which should have been purchased from them. AND WHEREAS, by an agreement bearing date the 2nd day of September, 1893, and made between the Corp ration of the one part and the Company of the other part, such agreement being sanctioned by Act III of 1894 of the Bengal Legislative Council, after reciting inter alia that under and by virtue of the 17th Clause of the said Concession or Contract of the 2nd day of October, 1879, the rent then payable by the said Calcutta Tramways Company, Limited, to the said Corporation of Calcutta was calculated at the rate of Rs. 3,250 per annum per mile of double line and Rs. 2,250 per annum per mile of single line it was in reference thereto agreed that the rent payable by the said Company to the Corporation from the 1st January, 1894, to the 31st December, 1900, being the end of the 21st year referred to in the said Concession or Contract of the 2nd October, 1879, should be calculated and paid at the said rate of Ks 3,250 per annum per mile of double line and Rs. 2,250 per annum per mile of single line anything in the said Concession or Contract of the 2nd Oct ber, 1879, to the contrary notwithstanding, and the said agreement contained a provise, which has since become inoperative, that a remission of Rs. 15,000 a year should be granted for five years with effect from 1894 subject to the condition that the dividends declared by the Company should not exceed 31 per cent. per annum during that period. And whereas the said Company some time since proposed to the Corporation to substitute electric traction for horse-power traction heretofore employed in the working of the tramways approved of by the Corporation and constructed and maintained by the Company, and to make such alterations in the construction of the said tramways as might be necessary to render the lines suitable to the adoption of such substituted traction, to which proposal the said Corporation assented. AND WHEREAS the said Company have, with the assent of the said Corporation, already effected the necessary alteration in the construction of portions of the said tramways. AND WHEREAS the parties hereto have deemed it expedient and have mutually agreed, subject to the sanction and authorisation of this agreement by an Act of the Bengal Legislative Council, that the said Concessions or Contracts of the 2nd October, 1879, and of the 22nd November, 1879, and the said agreement of the 2nd September, 1893, shall be varied or modified to the extent and in the manner hereinafter appearing. Now THESE PRESENTS WITNESS that, subject to the sanction and authorization thereof by an Act of the Bengal Legislative Cou cil to be hereafter passed for the purpose, and in consideration of the said mutual agreement and of the covenants hereinafter contained and on the part of the said Corporation and of the said Compay, respectively, to be observed and performed, the Corporation do hereby covenant with the Company and its assigns, and the Company for itself and its assigns doth hereby covenant with the Corporation, in manner following, that is to say:

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- 1. Preparatory to the introduction of the system of electric traction hereinafter mentioned, the Company will in a good and substantial manner alter and reconstruct the several tramways in Calcutta constructed and now maintained by the Company and specified in the Schedule hereto, and all other tramways in Calcutta now maintained by the Company other than the tramways specified in the said Schedule, by removing therefrom the rails of the pattern and weight hitherto laid and maintained by the Company in connection with and for the purposes of the system of horse-power traction at present employed in working the said tramways, and by substituting for such rails in the existing gauge rails of such pattern and weight as shall in the opinion of the Engineer to the Corporation be suitable for electric traction.
- 2. The Company will execute and completely finish the work of alteration and reconstruction of the said tramways, as to those specified in the Schedule hereto by the 31st December, 1899, and will execute and completely finish the work of alteration and reconstruction of the said tramways, other than those so specified in the said Schedule, with all reasonable and proper despatch.
- . 3. The Company will, within the period of three years from the date of this agreement, introduce and provide throughout the whole of the tramways of the Company a system of electric traction by means of overhead wires and of a description approved and accepted by the Corporation, in substitution for the existing system of horse-power traction, and will within the period aforesaid furnish and fully and efficiently equip the said transways with all plant and machinery necessary for the purpose and render the said system of electric traction so to be substituted sufficient and complete in all details as a working system, and, having so introduced and provided the said system of electric traction and so furnished and fully and efficiently equipped the said tramways, will give notice in writing of the completion of the said system to the Corporation. The said system of electric traction shall be completed to the satisfaction in all respects of the Engineer to the Corporation, and, on the Engineer to the Corporation satisfying himself that the said system of electric traction is complete, efficient and in good working order and safe for public service, and that the tramways and tramcars are in proper condition, he shall grant a certificate to that effect to the said Company, and from the date of the said certificate the said Company shall work the said system of electric traction.
- 4. If the Company shall not within the said period of three years from the date of this agreement complete the said system of electric traction in all details to the satisfaction of the Engineer to the Corporati n, the Company shall be liable to and shall for such failure pay to the Corporation a penalty or fire of Rs. 200 for each day or part of a day until the said system of electric traction shall be completed in all details to the satisfaction of the said Engineer. The said penalty or fine shall be paid by the Company on demand therefor being made by or on behalf of the Corporation, and in the event of non-payment thereof shall be recoverable in full from the Company. If the Engineer to the Corporation shall decide that any work or thing to be done or provided under this agreement is not to his satisfaction, and the Company shall take objection to such decision as being unreasonable, the question shall be referred to and settled by arbitration in the manner provided by the said Concession or Contract of the 2nd October, 1879.
- 5. The Corporation shall have the right of purchasing the said tramways, with the plant, machinery, land, buildings, rolling-stock, steres and everything connected therewith belonging to the Company, on the 1st January, 1931, upon declaring their intention so to purchase the same in writing not less than six calendar months before the said date, and the Coporation shall have a renewed right of purchase at the end of every seven years after the said ist January, 1931, upon similar notice being given. The consideration for such purchase shall be a cash payment of twenty-five times the difference between the average gross annual receipts and the working expenses of the Company, which said working expenses shall interalia include track-rent and the proper up-keep and maintenance of the said tramways, plant, machinery, buildings, and rolling-stock, and any sum payable under clause 6. The average of the gross annual receipts and the working expenses for the purposes of such purchase shall be determined by taking the average of the seven

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years immediately preceding the date of such purchase. Upon the expiry of the said notice the Company shall make over to the Corporation the entire tramways, plant, machinery, land, buildings, rolling-stock, stores and everything connected therewith. If the payment by the Corporation of the consideration for such purchase shall be delayed beyond the period of thirty days from the date of the expiration of the notice so to be given, the Corporation will pay to the Company interest on the amount of such consideration or such pirt thereof as shall be unpaid at the rate of 5 per cent, per annum from the date of the expiration of such notice, until payment, but in no event shall the said consideration be allowed to remain unpaid for more than six months from the date on which the same shall become due and payable. The provisions of this clause shall be in lieu of and not in addition to any power of purchase now vested in the Corporation under the said Concessions or Contracts of the 2nd October, 1879, and the 22nd November, 1879, or either of them, or the Calcutta Tramways Act, 1880, or otherwise.

- 6. The Company will, prior to the date of the expiration of the notice to be given by the Corporation u der and pursuant to the last preceding clause, well and sufficiently repair to the satisfaction of the Engineer to the Corporation such of the said tramways and of the said plant, machinery, buildings, rolling-stock and other things or such portions thereof, respectively, as shall then be in need of repair, and will place or restore the same in or to a good and serviceable order and condition, and will so make over the same to the Corporation. If default shall be made by the Company in complying with the provisions of this clause, the Corporation shall for such default, and to the extent thereof, be entitled to a deduction from the consideration for the purchase of the said tramways, plant, machinery, land, buildings, rolling-stock, stores and premises of the Company as aforesaid, the fact whether such default has occurred and the amount of such deduction to be determined by arbitration in the manner provided to the said Concession or Contract of the 2nd October, 1879.
- 7. Until such date as the Company shall we completed the said system of electric traction in all respects to the satisfaction of che Engineer to the Corporation, the Company will pay to the Corporation track-rent at the rate at which the same is now paid or may be payable by the Company under the said Concessions or Contracts of the 2nd October, 1879, and the 22nd November, 1879 and the said agreement of the 2nd September, 1893. On and from the date on which the Company shall have completed the said system of electric traction in all respects to the satisfaction of the Engineer to the Corporation, and thereafter throughout the period which shall elapse until the trainways, plant, in chinery, buildings, rolling-stock, stores and premises shall be purchased by the Corporation to exercise of the liberty accorded by clause 5, the Company will pay to the Corp ration the fixed track-rent of Rs. 35,000 per annum in respect of all the new-existing trainways without exception, provided that, if the working by the Company of any one existing tramways or any portion thereof shall with the previous sanction of the Corporation be hereafter discontinued, the Company shall be entitled to a proportionate reduction of the said fixed rent in respect of the tramway or portion thereof, the working whereof, shall be so discontinued.
- 8. As from the date in which the Company shall have completed the said system of electric traction, and throughout the period which shall elapse between such date and the date of the purchase by the Corporation of the property of the Company in manner hereinbefore provided, the Company shall on all tramways the subject of this agreement provide and maintain such a full and proper daily service of tramcars running in both directions as shall in the opinion of the Chairman of the Corporation be sufficient for the requirements and convenience of the public.
- 9. If the Company shall in any respect fail to maintain a fit and proper daily service of tramcars to the satisfaction of the Chairman of the Corporation, or shall in any respect fail to maintain the tramways in good at d efficient order or the tramcars in efficient condition to the satisfaction of the Engineer of the Corporation, the Chairman or the Engineer, as the case may be, shall give notice to the Company to make good any default by a date to be named in such notice, and should the Company take objection to such notice as being in any respect unreasonable,

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1900. Act 4. the matter in question shall be referred to arbitration in the manner provided in the said Concession or Contract of the 2nd October, 1879, and the arbitrators or their umpire shall by their or his award be impowered to direct the Company to do all works and things necessary to keep the tramways in good and efficient order or to maintain a fit and proper daily service of tramcars or to maintain the cars in efficient condition, as the case may be and the Company shall forthwith comply with the direction in such award within such period as shall be named therein, and, from the date of the submission to such arbitration or the date that may be fixed by the Engineer, if his decision is accepted, the Company shall, until they shall have complied with such notice or direction, be liable to pay and on demand by the Corporation shall pay the full track-rent provided for in the said Concession or Contract of the 2nd October, 1879, and shall forfeit all right to or benefit of any modification of such rent during such period.

10. And it is expressly agreed and declared that, subject to the sanction and authorisation of this Agreement by an Act of the Bengal Legislative Council, the said Concessions or Contracts of the 2nd October, 1879, and the 22nd November, 1879, respectively, and the Calcutta Tramways Act, 1880, Act III. (B.C.) of 1894 and the Agreement of the 2nd September, 1893, shall be read and construed as extended and varied or modified by this Agreement.

Schedule referred to in the foregoing Agreement.

Bow Bazar Street.
Lall Bazar.
Strand Road.
Dhurrumtollah Street.
Cornwallis Street.
College Street.
Wellesley Street.

Wellington Street.
Kidderpore line.
Old Court House Street.
Lower Chitpore Road.
Dalhousie Square, South
Hare Street Junctions.
Chowringhee—all crossings.

Nimtollah Ghat Street-whole.

As witness the hands of the Chairman and two other Commissioners and the seal of the Corporation of Calcutta and the hand of John Richard Maples, the duly-constituted Attorney of the Calcutta Tramways Company, Limited, in the name and on behalf of the Company.

Given under the common scal of the Corporation of Calcutta and duly signed in the presence of

W. R. MACDONALD,

Secretary.

W. R. BRIGHT, C.S.,

Chairman,

SATIS CHANDRA GHOSH, E. M. D. COHEN,

Municipal Commissioners.

Witnesses to the signature of John Richard Maples, the duly-constituted Attorney of the Calcutta Tramways Company, Limited, in the name and on behalf of the Company.

JOHN CAVE ORR,

Attorney-at-Law.

J. W. ORR,

Attorney-at-Law.

Calcutta.

THE CALCUTTA
TRAMWAYS Co, LD.
By their Attorney.
JNO. R. MAPLES.

BEN. ACT I. OF 1902.

The Howrah Bridge Electric Lighting Act, 1902.

[Repealed by Act III. of 1903.]

BEN. ACT II. OF 1902.

The Bengal Drainage (Amendment) Act, 1902.

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BEN. ACT. II. OF. 1902.

1902, Act 2.

The Bengal. Drainage (Amendment) Act, 1902.

[PUBLISHED IN THE "CALCUITA GAZETTE," OF THE IST OCTOBER 1902.]

An Act to amend the Bengal Drainage Act, 1880.*

WHEREAS it is expedient to amend the Bengal Drainage Act, 1880,* in the manner hereinafter appearing,

It is hereby enacted as follows:—

Short title.

1 This Act may be called the Bengal Drainage (Amendment) Act, 1902.

PART 1.—Amendment of the Bengal Drainage Act, 1880.*

- 2. In section 3 of the Bengal Drainage Act, 1880,* after the definition of "Collector," the following shall Amendment of section 3, Bengal Act VI. of 1830. be inserted, namely:-
- "Certificate Officer" means a Certificate Officer as defined in clause (2) of section 4 of the Public Demands Recovery Act, 1895.7

Amendment of section 26, and insertion of new section, 26A.

3. For section 26 of the said Bengal Drainage Act, 1880,* the following shall be substituted, namely:-

Interest to be charged on such advances.

- " 26. Interest shall be charged on all such advances until the same have been recovered.
- "26A. (1) In every case in which the (charging of interest is authorized by this Act, the rate chargeable Rate of interest, and barring of compound interest. shall be four per centum per annum.
 - "(2) No compound interest shall be charged in any case.
- EXPLANATION.—The interest recoverable from a tenant under section 42, clause (b), section 43, clause (b), section 44 or section 44A shall not be deemed to be 'compound interest' within the meaning of this section, although it includes simple interest upon interest which has been paid by a landholder or superior tenant in pursuance of this Act."
 - Amendment of section 28.

4. In section 28, sub-section (2), of the said Act,* for the words and figures, "the interest mentioned in section 26," the word "interest" shall. be substituted.

Repeal of section 29 and portions of sections 30, 31, 38, and 42 to 44.

5. The following portions of the said Act* are hereby repealed, namely:—

section 29,

Ben. Act VI. of 1880.

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in section 30, the figures and word "26 or,"

- in section 31, the words "upon such sums at five per centum per annum," and the words and figures "and any interest payable under section 29, and any interest payable under clause (1) of section 26, but not paid or recovered before the apportionment under section 28,"
- in section 38, the words "thereupon at five per centum per annum," in clause (b) of section 40, and
- in clause (b) of section 43, the words "at the rate of five per centum per annum," and
- in sub-section (3) of section 44, the words "at five per centum per annum."

Insertion of new section, 36 After section 36 of the said Act, the following shall be inserted, namely:—

- "36A. (1) If any order passed under section 36, so far as it

 Power to add to, or alter, declares what persons are liable to pay any sum under this Act in respect of any land, appears at any time to require revision,—
 - (a) by reason of the omission of the name of any co-sharer of such land, or
 - (b) by reason of any change having taken place in the ownership or joint ownership of such land, or
 - (c) for any other substantial reason,

the Collector may on the application of any holder of the land, or of his own motion, and after such inquiry, and upon such conditions (if any) as he may think proper, add to or alter such order:

Provided that every person whose name is so added, or who is materially affected by any such alteration, has had an opportunity of being heard by the Collector.

- (2) any person who is dissatisfied with any addition or alteration made under sub-section (1) may, within one month after the same was made, appeal to the Commissioner of the Division.
- (3) The Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published in the manner prescribed by section 35; and shall, on the day so fixed, hear such appeal and all objections thereto advanced by persons interested, and may confirm or revise the addition or alteration or may remit the case to the Collector for further consideration and revision.
- (4) The decision of the Commissioner on any such appeal shall be final.
- (5) Every addition and alteration made under this section shall be published, in such manner as to the Collector may seem fit, after the expiration of one month—

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(i) from the time when the addition or alteration was made, 1902.

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(ii) if any appeal has been preferred under sub-section (2), from the decision of the appeal;

and the addition or alteration shall take effect from the date of such publication; and proceedings may thereupon be taken under this Act, in respect of such addition or alteration, as if a new order embodying it had been made under section 36."

Amendment of section 37.

7. (1) In section 37 of the said Act—

for the words "its service," the words "the service thereof" shall be substituted, and

for the words "at the rate of five per centum per annum," the words "up to the day of payment" shall be substituted.

(2) The words "at the said rate" in the said section 37 are hereby repealed.

8. After section 41 of the said Act, the Insertion of new Part, IVA. following shall be inserted, namely:-

"PART IVA.

"RECOVERY OF SHARE OF PAYMENTS FROM CO-SHARERS.

- "41A. When any landholder has made any payment under the foregoing provisions of this Act in respect Power to recover share of payments from co-shaof land which he holds jointly with other persons, and such payment exceeds the amount which is proportionate to his individual interest in the land, he may—
 - (a) recover from his co-sharers, respectively, such contributions towards such payment as are proportionate to their individual interests in the land, either-
 - (i) in the same manner in which arrears of rent are recoverable under the Bengal Tenancy Act, 1885,* and under similar penalties, or-
 - (ii) if such co-sharers have been declared by any order passed under section 36, or revised under section 36A to be liable to pay—upon application to the Collector as hereinafter provided, or
 - (b) take credit for such contributions as aforesaid in any adjustment of accounts between himself and his cosharers."

9. After section 44 of the said Bengal Insertion of new sec-Drainage Act, 1880,† the following shall be tions, 44A and 44B. inserted, namely:-

[•] Act VIIIi of 1884.

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"44A. (1) If any landholder or superior tenant has made any Recovery, under the certificate procedure, of payment under the foregoing provisions of this Act in respect of lands which are or were held by tenants immediately from him, and which have been benefited by any scheme or works carried out under this Act,

and if he has not enhanced the rent of such tenants under section 42, clause (a), or section 43, clause (a), or recovered under section 42, clause (b), section 43, clause (b), or section 44, the sums due to him,

he may, upon application to the Collector as hereinafter provided, but subject to the provisions of sub-section (1) of section 44 as to instalments, recover from such tenants such sums as he may be entitled to according to the proportion and under the rules laid down in clause (c) of section 42, with interest from the date of such payment.

- (2) An application in respect of a payment may be made under this section by a landholder who was declared, by an order passed under section 36 to be liable to make such payment, although his name has been removed, by an order made under section 36A, from the list of persons declared liable to make payments.
- (3) If any tenants referred to in sub-section (1) have transferred their tenancies, the sums referred to in that sub-section may be recovered thereunder—
 - (a) from the said tenants for the period during which they occupied the benefited land since the carrying-out of the said scheme or woks, or
 - (b) from the tenants in possession.
- "44B. Notwithstanding anything hereinbefore contained, no
 Bar to recovery of money
 from tenants in certain
 cases.

 sum shall be recoverable under section 42,
 clause (b), section 43, clause (b), section 44,
 or section 44A, in respect of any lands which
 have been benefited by any scheme or works carried out under this
 Act, when, in consequence of such scheme or works,—
 - (a) the rent of such lands has been increased, or
 - (b) rent has for the first time been imposed on such lands."

Amendment of section 45.

10. In section 45 of the said Act, after the figures "43" the words and figures "or under section 44A" shall be inserted.

Amendment of section 48.

11. (1) At the end of sub-section (1) of section 48 of the said Act, the following shall be added, namely:—

"and for that purpose the procedure prescribed by section 41A or section 44A and sections 51B and 51C shall be applicable."

(2) In sub-section (3) of section 48 of the said Act, for the word "five," the word "four" shall be substituted.

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Insertion of new sections, 51A to 51].

revenue.

12. After section 51 of the said Act. the following shall be inserted, namely:—

Recovery, under the certificate procedure, of payments made in respect of land held free of rent or

"51A. Any person who has been determined under section 50 to be the landholder in respect of land held free of rent or revenue, which has benefited by any scheme or works carried out under this Act, and who has made any payment under the foregoing provisions of this Act

in respect of such land, may, upon application to the Collector as hereinafter provided, but subject to the provisions of section 51, recover the amount of such payment from any person holding such land immediately below him.

- Further provisions as to applications under section 41A, 44A, or 51A.
- "51B. (1) Every application to the Collector under section 41A for the recovery of contributions from co-sharers towards a payment made by a 1. ndholder under the foregoing provisions of this Act, must—
 - (a) be made within six months after such payment was made, and
 - (b) specify the amount of such payment, and the amount of such contributions, due from each co-sharer.
- (2) Every application to the Collector under section 44A or section 51A for the recovery of sums due from tenants of, or persons holding, lands benefited by any scheme or works carried out under this Act, on account of any payment made by the applicant under the foregoing provisions of this Act, must-
 - (c) be made within six months after such sums became due,
 - (d) specify the amount of such payment, and the date on which it was made,
 - (e) specify the amount of such sums due from each tenant or person holding land, and the date on which it became due, and
 - (f) be accompanied by a declaration signed by the applicant, and stating—
 - (1) that he has not, on account of the said scheme or works, enhanced the rent, if any, payable in respect of the said lands or any of them, and
 - (ii) that he has not taken from such tenants or persons holding land, or any of them any premium on account of such scheme or works.
- (3) Every application under section 4.A, section 44A, or section 51A, must—

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- (g) be signed and verified in the manner provided by sections 51* and 52* of the Code of Civil Procedure for the signature and verification of plaints.
- (h) be accompanied by a court-fee of eight annas, and
- (j) request the Collector to make a certificate authorizing the recovery of the said contributions or sums, as the case may be, under the Public Demands Recovery Act, 1805.†
- (4) Every declaration made under clause (f) shall, for the purposes of section 199 of the Indian Penal Code, the deemed to be a declaration which the Collector is authorized by law to receive as evidence.
- (5) If the Collector, at any time, has reason to believe that any declaration accompanying an application as aforesaid, or any part thereof, is false, he may reject the application and leave the applicant to pursue his claim in a Civil Court.

Grant of certificate, and effect thereof.

"51C. (1) Upon receiving any such application, the Collector may, if he thinks fit, make a certificate as aforesaid.

- (2) Every such certificate shall have the same effect as a certificate made under section 7 of the said Public Demands Recovery Act, 1895;† and the same notices shall be issued, and the same proceedings may be taken, with respect thereto, by the Certificate Officer, as in the case of a certificate made under that section.
- (3) The person in whose favour any such certificate is made shall be deemed to be the decree-holder for the amount mentioned in the certificate, and the person against whom the certificate is made shall be deemed to be the judgment-debtor for the said amount; and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost, and on his responsibility, and not otherwise.
- (4) If any person against whom any such certificate is made objects that the contributions or sums claimed by the person who applied for the certificate are not legally due, or exceed the sums which the applicant could recover from him in a Civil Court as being payable in respect individual interest in the land, and if the Certificate Officer considers there is probable ground for such objection, the Certificate Officer may modify the certificate, or, if he thinks fit, cancel the certificate, and leave the applicant to pursue his claim in a Civil Court.

^{*} Should now mean rr. 14 and 15 (1), and r. 15 (2) and (3) respectively, of O. VI. of Act V. of 1908, the new Code now in force, whereby the old Code (Act XIV. of 1882), to the above two sections (51 and 52) whereof the reference aforesaid relates, has entirely been repealed.

[†] Ben. Act I. of 1895. 1 Act XLV, of 1860.

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"51D. (1) If, in any area benefited by any scheme or works 1902. carried out under this Act, there has occur-Power of Collector to suspend recovery of dues in red in any year a total or serious failure of case of failure of crops. crops, then, notwithstanding anything hereinbefore contained, the Collector may, after such inquiry (if any) as he deems necessary, and with the previous sanction of the Commissioner of the Division, by written order, suspend, for the whole or any part of that year, the recovery of all or any sums which are recoverable from landholders and tenants, respectively, in respect of such area, under the foregoing provisions of this Act.

- (2) Every such order shall be published in the manner prescribed in section 12 for the publication of the notifications referred to in that section.
- (3) When any such order has been duly published, all proceedings under the Public Demands Recovery Act, 1895 * and all suits by landholders or tenants, for the recovery of any sums to which such order relates, shall be stayed during the period specified in the order.

Bar to jurisdiction of Courts in respect of order of suspension.

- "51E. An order duly made and published under section 51D shall not be questioned in any Civil or Revenue Court.
- "51F. If any landholder or tenant, during any period specified in an order duly made and published under when land-Procedure holder or tenant collects section 51D, collects any sums payable to dues during period of sushim to which such order relates, then all pension. sums payable by him to which such order relates may be recovered from him as if such order had not been made.
- Extension of period for payment of instalments, when order of suspension

"51G. When an order has been duly made and published under section 51D, suspending the recovery of any sums for any period, then, if such sums form part of a sum which is, in pursuance of this Act, payable by instalments,

the period remaining for the payment of such instalments shall be extended by the period specified in such order, and no more than one instalment of the sum remaining due shall be payable in any succeeding year.

- "51H. When an order has been duly made and published under section 51D, suspending the recovery Extension o period of limitation when order of of any sums for any period, such period shall suspension made. be excluded in computing the period of limitation prescribed for a suit or application for the recovery of such sums.
- "51]. When an order has been duly made and published under section 51D suspending the recovery of any Interest not to accrue dursums for any period, then, notwithstanding ing period of suspension.

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anything hereinbefore contained, no interest shall accrue on such sums during such period."

- 13. (1) In Schedule B to the said Bengal Drainage Act. 1880,* for the word "five," the word "four" Amendment of Schedule shall be substituted.
- (2) To the said Schedule, the following shall be added, name-
 - "together with simple interest, at the rate of four per centum per annum, on all instalments remaining unpaid at the date of each such payment."

Part II.—Past Claims and Charges in respect of the Drainage Schemes of Howrah and Rajapur.

Recovery, under the certificate procedure, of certain subsisting claims in respect of the Howrah and Rajapur drainage schemes.

14. The provisions of sections 41A, 44A, 51A, 51B [except clauses (a) and (c) and 51C of the Bengal Drainage Act, 1880* as amended by this Act, as to the recovery of moneys upon application to the Collector, shall apply also to all claims which have already accrued in

respect of the drainage schemes of Howrah and Rajapur, and which at the commencement of this Act, are unsatisfied, and have not been barred by limitation:

Provided that every application under any of the said sections in respect of any such claim be made within three months from the commencement of this Act.

- 15. (1) The Collector shall, as soon as conveniently may be, revise all orders heretofore passed under Reduction of past charges section 36 of the said Bengal drainage Act, in respect of the Howrah and Rajapur drainage 1880.* which declared the sums payable schemes, in respect of lands benefited by the drainage schemes of Howrah and Rajapur, so as-
 - (a) to reduce all charges for interest to the sums which would have been chargeable if the amendments made by this Act had been in force when such orders were passed, and
 - (b) to make such reductions (if any) in other charges as may be directed by the Local Government.
- (2) When the reductions directed by or under sub-section (1) have been made in respect of any scheme, the Collector shall make an order stating—
 - (i) that all holders of land benefited by the scheme, and all tenants of such land, are entitled to proportionate relief,

(ii) how such relief is to be apportioned in respect of each 1902. class of such land,

Act 2

- (iii) such particulars as to the determination of the persons who are entitled to such relief, and as to the determination of the sums to which such persons are respectively entitled, as may be prescribed by rules made under section 19, and
- (iv) any other particulars prescribed by such rules.
- (3) Every order made under sub-section (2) shall be subject to the approval of the Commissioner.
- (4) When any such order has been so approved, it shall be published in such manner as to the Collector may seem fit, and shall, after such publication, be conclusive evidence in any Civil Court, and in any proceedings under this Act, of the matter stated therein.
- 16. (1) If, prior to the publication of any order made under section 15 in respect of any scheme, the Refunding or crediting whole sum payable by any landholder in of reduction to landholder. respect of such scheme has been duly paid, then such landholder shall, upon such publication, be entitled to a refund of the sum to which he is entitled under such order.
- (2) If, when any order made under section 15 in respect of any scheme has been duly published, any sum payable by any landholder in respect of such scheme still remains to be paid, then the sum to which such landholder is entitled under such order shall be credited to him.
- 17. (1) When any sum has been refunded or credited to a landholder under section 16 of this Act, the Proportionate reduction in amounts recoverable by amounts which were recoverable by him landholder from tenants. under section 42, clause (b), section 44, section 44A or section 51A of the said Bengal Drainage Act, 1880,* from persons who have held or are now holding land immediately from him, shall be proportionately reduced.
- (2) Any such persons who have paid such amounts shall have a right, at their option,—
 - (a) to a refund of the sums to which they are entitled under sub-section (1), or
 - (b) to take credit for such sums in any adjustment of accounts between themselves and the landholder.
- 18. (1) When any sum recoverable from a superior tenant is liable to reduction under section 17 of this Proportionate reduction Act, the amounts which were recoverable by in amounts recoverable by superior tenants from him under section 43, clause (b), section 44. under-tenants. section 44A, or section 51A of the said

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1902. Bengal Drainage Act, 1880,* from persons who have held or are now holding, land directly from him, shall be proportionately reduced.

- (2) Any such persons who have paid such amounts shall have a right, at their option,—
 - (a) to a refund of the sums to which they are entitled under sub-section (1), or
 - (b) to take credit for such sums in any adjustment of accounts between themselves and the superior tenant.
- 19 (1) The Local Government may, after previous publication

 Power to make rules as make rules for carrying out and giving effect to reductions.

 to the provisions of sections 15 to 18.
- (2) In particular, and without prejudice to the generality of subsection (1) the Local Government may—
 - (a) prescribe the particulars to be stated in orders made under section 15, and
 - (b) declare the conditions under which refunds and credits shall be made under sections 16, 17, and 18.
- (3) All rules made under this section shall be published in the Calcutta Gasette, and in such other manner (if any) as the Local Government may direct.

^{*} Ben. Act VI. of 1880.

BEN. ACT NO. 1. OF 1903.

1903. Act 1

The Bengal Tenancy (Validation and Amendment) Act, 1903.*

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act to validate certain transfers, made under the Bengal Tenancy Act, 1885,* of permanent tenures and holdings at fixed rents or fixed rates and of shares in the same; and to amend section 106 of that Act.

WHEREAS doubts and difficulties have arisen respecting the meaning and effect of sections 12, 13, 17 and 18 of the Bengal Tenancy Act, 1885,* as regards the payment of the prescribed landlord's fee, and the effect of the non-payment of such fee;

And whereas it is expedient to declare that registered transfers and sales and decrees or orders for foreclosure of mortgage, confirmed and made absolute by the Civil Courts, of permanent tenures and holdings at fixed rates and fixed rents, and of shares in such tenures and holdings, shall not be deemed to be invalid merely on the ground that the landlord's prescribed fee has not been paid;

And whereas it is also expedient to amend section 106 of the said Act in manner hereinafter appearing;

And whereas, the said Act having been passed by the Governor-General of India in Council, the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,† to the passing of this Act;

It is hereby enacted as follows:-

Validation of transfers of hereafter be made under section 12, section tenures and holdings and shares in the same.

13, section 17 or section 18 of the Bengal Tenancy Act, 1885,* of a permanent tenure, or of a holding at a rent or rate of rent fixed in perpetuity or of a share in such tenure or holding, shall be deemed to be invalid merely on the ground that the landlord's few prescribed by the said section 12 or 13 has not been paid:

Provided always that, subject to the Explanation following, nothing in this section shall be held to affect the decision of a Court of competent jurisdiction which has become final before the commencement of this Act.

Explanation.—A decree in a suit for rent which has become final disallowing a claim for rent on the ground that the relationship of landlord and tenant does not exist between the parties to the suit by reason of the non-payment of the landlord's fee, shall not bar a suit for rent which became payable subsequently to such claim.

1903. Realization of fee when Act 1. left unpaid.

2. In any case where the prescribed fee has been or may hereafter be left unpaid, the landlord may, within two years of the commencement of this Act.

or within two years of the date of registration of the document, effecting the transfer.

or within two years of the date of confirmation of the sale by the Civil Court,

or within two years of the date upon which a decree or order absolute for the foreclosure of a mortgage has been or may hereafter be made by the Civil Court,

apply to the Collector for realization of such fee from the transferee, or from the auction-purchaser or from the person who has obtained an order absolute for foreclosure of mortgage in the Civil Court, and on such application being presented, the Collector shall realize such fee if still unpaid, together with costs of realization from such person as if it were an arrear of revenue.

Saving of section 88.

3. Nothing in section 1 shall be deemed to affect the provisions of section 88 of the said Bengal Tenancy Act, 1885.*

Substitution of a new sec tion for section 106.

4. For section 106 of the said Act, the following shall be substituted, namely:—

"106. In proceedings under this Part, a suit may be instituted Institution of suit before before a Revenue-officer at any time within a Revenue-officer. three months from the date of the certificate of the final publication of the record-of-rights under sub-section (2) of section 103A of this Act, by presenting a plaint on stamped paper for the decision of any dispute regarding any entry which a Revenueofficer has made in, or any omission which the said officer has made from, the record, whether such dispute be between landlord and tenant or between landlords of the same or of neighbouring estates, or between tenant and tenant, or as to whether the relationship of landlord and tenant exists, or as to whether land held rent-free is properly so held, or as to any other matter, and the Revenue-officer shall hear and decide the dispute:

Provided that the Revenue-officer may, subject to such rules as the Local Government may prescribe in this behalf, transfer any. particular case or class of cases to a competent Civil Court for trial."

Short title.

5: This Act may be called the Bengal Tenancy (validation and Amendment) Act. 1903.

^{*} Act VIII, of 1885.

BEN. ACT NO. 1. OF 1904.

1904.

The Bengal Tramways (Amendment) Act, 1904.

Acts 1 & 2.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act to amend the Bengal Iramways Act, 1883.

WHEREAS it is expedient to amend the Bengal Tramways Act 1883;*

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Bengal Tramways (Amendment) Act, 1904.
- 2. After the word "shorter," in the proviso to section 41 of Amendment of Ben. Act the Bengal Tramways Act, 1883, the words III. of 1883, section 41. "or longer" shall be inserted.

BEN, ACT NO. 11. OF 1904.

The Bengal Public Parks Act, 1904.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act for the regulation of l'ublic Parks in Bengal.

WHEREAS it is expedient to protect public parks and gardens in Bengal from injury, and to secure the public from molestation and annoyance while resorting to such parks and gardens;

It is hereby enacted as follows:-

Short title and application.

1. (1) This Act may be called the Bengal Public Parks Act, 1904.

(2) It applies to the public parks and gardens mentioned in the Schedule, and may be applied to any other public park or garden in Bengal by order of the Local Government published in the Calcutta Gazette.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "park" means any public park or garden to which this Act applies by virtue of section 1, sub-section (2), or any order published thereunder;
- (b) "superintendent" means the person in executive charge of a park; and, for the purposes of section 6, subsection (2), includes also—

^{*} Ben, Act III. of 1883.

1904. Act 2.

- (i) an assistant superintendent of a park, and
- (11) any member of the Managing Committee (if any) of a park; and
- (c) "park-durwan" means any person appointed by the superintendent, or by the authority to whom the superintendent is subordinate, to act as a durwan of the park.
- 3. The Local Government, may, by notification in the Power to extend bounda. Calcutta Gasette, declare that any specified land, bridge or pontoon shall, for the purposes of this Act, be deemed to be included in any park.
 - 4. (1) The Local Government may make rules for the management and preservation of any park, and for regulating the use thereof, by the public.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may—
 - (a) regulate the admission of persons, horses and ponies, and carriages, palanquins and other conveyances, into the park, and prescribe fees to be paid therefor;
 - (b) prohibit or regulate the bringing of dogs, motor cars, bicycles or tricycles into the park;
 - (c) prohibit the doing of all or any of the following things by persons other than employés of the park, that is to say, plucking or gathering anything growing in the park, breaking trees, branches or plants, cutting names or marks on trees, disfiguring buildings, furniture or monuments, removing or disfiguring labels or marks attached to trees or plants;
 - (d) prohibit the purchase of any produce of the park otherwise than from the superintendent or some other authorised person;
 - (e) prohibit shooting, bird-nesting, the catching of butterflies, or any act of cruelty;
 - (f) prohibit or regulate fishing or boating, and prescribe fees to be paid by persons obtaining permission to fish or to use boats;
 - (g) prohibit bathing, or the pollution of water by any other means;
 - (h) prohibit the grazing of horses or ponies;
 - (j) prohibit the teasing or annoying of animals or birds kept in the park;
 - (k) prohibit the commission of any nuisance, or the molestation or annoyance of any person resorting to the park.

(3) In making any rule under this section, the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

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- (4) The power to make rules under this section is subject to the condition that they shall be made after previous publication.
- (5) All rules made under this section shall be published in the Calcutta Gasette.
- Exhibition of copies of notifications and rules in park

 resorting to a park, and for the time being in force, shall be put up in the park in such conspicuous manner as the superintendent may deem best calculated to give information to such persons.
 - 6. (1) If any person who, in the presence of a park-durwan Refusal of offender to give in uniform, has committed or has been acname and residence. cused of committing a breach of any rule made under section 4, and who is unknown to such durwan, refuses, on demand of such durwan, to give his name and residence, or gives a name or residence which such durwan has reason to believe to be false, such person may be detained by such durwan in order that his name or residence may be ascertained.
 - (2) When any person is detained under sub-section (1) he shall forthwith be taken to the superintendent; or if the superintendent be not present in the park or its immediate precincts, such person shall be taken to the nearest police-station, or, if he so requests, to the nearest Magistrate having jurisdiction to try him.
 - (3) If the true name and residence of any person so taken to the superintendent be not ascertained within a reasonable time, the superintendent shall forthwith send for an officer of police, and shall detain the offender until the arrival of such an officer, and shall then deliver him into the custody of such officer, to be taken to the nearest police-station.
 - (4) If the true name and residence of any person taken to a police-station under this section be not ascertained within a reasonable time, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction to try him.
 - (5) When the true name and residence of any person detained under this section have been ascertained, he shall be allowed to depart.
 - (6) No person shall be detained under this section for a longer period than twelve hours.

Superintendent and parkdurwan deemed "public servants." 7. Every superintendent and park-durwan shall, for the purposes of the Indian Penal Code,* be deemed to be a public servant.

1904. Act 2. 8. Every park-durwan shall, in addition to any powers and General powers, duties, immunities specially conferred on him by etc, of park-durwan. this Act or by rules made hereunder, have, within the limits of the park to which he is appointed, all such powers, privileges and immunities, and shall, within the said limits, be liable to all such duties and responsibilities, as a police-constable has and is liable to within the limits of the police-station in which such park is comprised:

Provided that every park-durwan shall be subordinate to the superintendent.

9. Every police-constable employed within the limits of a General powers, etc., of police-station shall have, within any park-police-constables comprised in such limits, the powers, privileges and immunities conferred on a park-durwan by this Act and any rules made hereunder.

THE SCHEDULE.

PUBLIC PARKS AND GARDENS TO WHICH THIS ACT APPLIES IN THE FIRST INSTANCE.

[See section 1, sub-section (2).]

The Royal Botanic Garden, Sibpur.
The Zoological Garden, Alipur.
The Eden Gardens, Calcutta.
The Lloyd Botanical Garden, Darjeeling
The Victoria Pleasance, Darjeeling.

BEN ACT NO. III, OF 1904.

The Bengal Settled Estates Act, 1904.

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BEN. ACT NO. III. OF 1904.

The Bengal Settled Estates Act, 1904.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act to facilitate the family settlement of estate in Bengal.

WHEREAS it is expedient to facilitate the making of family settlements of estates by landholders in Bengal;

And whereas, the Bengal Land-revenue Sales Act 1859,* the Indian Succession Act 1865,† the Court Fees Act 1870,‡ the Indian Limitation Act 1877, the Probate and Aministration Act 1881, the Transfer of Property Act 1882, I the Succession Certificate Act 1889,** and the Indian Stamp Act 1899,†† having been passed by the Governor-General of India in Council, the previous sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act 1892,‡‡ to the passing of this Act;

It is hereby enacted as follows:

PART I.

PRELIMINARY.

Short title and extent.

1. (1) This Act may be called The Bengal Settled Estates Act, 1904; and

(2) It extends to the whole of Bengal.

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

- (a) "estate" includes—
 - (i) immoveable property.
 - (ii) money, and securities for money, and
 - (iii) any jewellery or other moveable property which should, in the opinion of the Local Government, be treated as heirloons;
- (b) "settled estate" means an estate in respect of which a settlement made under this Act is for the time being in force:
- (c) "settler" means the person who makes a settlement under this Act;
- (d) "first tenant for life" means the settler;

^{*} Act XI, of 1859.

[†] Act X. of 1865.

Act VII. of 1870. Act XV. of 1877.

Act. V. of 1881.

[¶] Act. IV. of 1882.

^{**} Act VII. of 1889. †† Act II. of 1899.

^{‡‡ 55 &}amp; 56 Vict., c. 14.

(e) "second tenant for life" means the person appointed by a settlement made under this Act to take a settled estate on the death of the first tenant for life, or who, on the surrender by the first tenant for life, takes his interest under the settlement;

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- (f) "third tenant for life" means the person appointed by a settlement made under this Act to take a settled estate on the death of the second tenant for life, or who, on the surrender by the second tenant for life, takes his interest under the settlement;
- (g) "tenant for life" means a first, second or third tenant for life;
- (h) "son" includes a son born after the execution of a settlement, and, in the case of any one whose pernonal law permits adoption, includes also, a son—
 - (i) duly adopted, either before or after the execution of a settlement, by the adoptive father himself, or
 - (11) duly adopted to her deceased husband, within five years after his death, by a widow, acting under authority, in writing and registered, lawfully conferred on her by him in that behalf;
- (j) "secured debt" means a debt, demand or claim which is secured by way of a mortgage, charge or lien on specified property and is primarily enforceable against such property;
- (k) "unsecured debt" means a debt, demand or claim (other than a secured debt) for any sum exceeding five hundred rupees, which is enforceable against the person or general property of the debtor;
- (1) "secured creditor" means a person who is entitled to enforce payment of a secured debt;
- (m) "unsecured creditor" means a person who is entitled to enforce payment of an unsecured debt;
- (n) "incumbrance" means a secured debt, or an unsecured debt, or both;
- (0) the expression "the Collector," when used with reference to any estate, means the Collector of the district in which the estate or any part thereof is situated; and
- (p, the expression "the Civil Court," when used with reference to any estate, means the principal Civil Court having original jurisdiction in the area in which the estate or any part thereof is situated.
- (2) A person shall be deemed, for the purposes of this Act, to be "competent to contract" if he is of the age of majority according to the law to which he is subject, and is of sound mind, and is not disqualified from contracting by any law to which he is subject.

1904 Act 3. (3) All words and expressions used in this Act, which are defined in the Transfer of Property Act 1882,* shall have the same meaning as in that Act.

PART II.

APPLICATION FOR PERMISSION TO MAKE A FIRST SETTLEMENT OF AN ESTATE.

- 3. (1) Any landholder may apply to the Local Government for Who may apply for permission to make a settlement of an estate under this Act,—
 - (a) if he is competent to contract,
 - (b) if he is in possession of the estate, either in his own right or along with or on behalf of others, and
 - (c) if the estate is held in permanent, heritable and transferable right:
- (2) Provided that no application may be made under sub-section (1) in respect of any estate—
 - (i) unless the applicant is solely entitled to the estate, or
 - (ii) if the estate belongs to a joint Hindu family—unless the applicant is the karta or managing member of the family, or
 - (iii) if the estate belongs to co-sharers—unless the applicant is a principal shareholder in the estate and has, by custom or with the consent of his co-sharers, the sole right of management over the estate.
- 4. (1) Every such application must be in writing, and must be Signature, verification and contents of application. signed by the applicant and verified by him in the manner prescribed in section 52 of the Code of Civil Procedure† for the verification of plaints.
- (2) Every such application must contain the following particulars, namely:—
 - (a) a description of the estate, sufficient for its identification;
 - (b) a statement of the income yielded annually by the property comprised in the estate, and the revenue, rates and taxes due to the Government or any Local Authority annually in respect of such property; and
 - (c) a list giving a full and complete enumeration and description of all incumbrances held by secured and unsecured creditors, respectively, and enforceable against the applicant or the estate; with the name and address of each such creditor, and a correct statement of the amount due to each such creditor.

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Declarations and draft to accompany application in the case of an estate belonging to a joint Hindu family or to co-sharers.

5. (1) If any estate in respect of which an application is made under section 3 belongs to—

- sharers.

 (a) a joint Hindu family, or
- (b) co sharers, the application must be accompanied by—
 - (i) a sworn declaration by the applicant,
 - in case (a), that he is the karta or managing member of the family, or
 - in case (b), that he is a principal shareholder in the estate and has, by custom or with the consent of his co-sharers, as the case may be, the sole right of management over the estate; and
 - (ii) a sworn declaration, in case (a), by the other coowners, or in case (b) by the other co-sharers, that they are willing to assent to the estate being settled under this Act; and
 - (iii) a draft of the proposed instrument of settlement.
- (2) If any of the said other co-owners or co-sharers is at the time when the application is made, a minor, a declaration under clause (it) of sub-section (1) may be accepted if it is—

made on behalf of such minor by the guardian of his property or (when a guardian of his property cannot lawfully be appointed) the guardian of his person, appointed or declared under the Guardians and Wards Act 1890,* or any other law for the time being in force, and

approved by an order in writing under the seal of the Court which appointed or declared the guardian.

(3) If any of the aforesaid other co-owners-or co-sharers is, at the time when the application is made, a lunatic, a declaration may be accepted under clause (11) of sub-section (1) if it is—

made on behalf of such lunatic by his Committee appointed under the, Lunacy (Supreme Courts) Act 1858,† or the Lunacy (District Courts) Act 1858,‡ or any other law for the time being in force, and

approved by an order in writing under the seal of the Court which appointed the Committee.

6. The Local Government may, in its discretion, and after such Power to reject application.

inquiry (if any) as it may think fit to make, by written order reject any application made under section 3.

^{*} Act VIII. of 1890. † Act XXXIV. of 1858. Acts XXXIV. and XXXV. have been repealed and re-enacted by Act IV. of 1912.

1904. ------Act 3.

7. If any application made under section 3 is not rejected under Transmission and noti-section 6, and if the Local Government is fication of application. satisfied that the conditions specified in section 3 are fulfilled, and that the provisions of sections 4 and 5 have been duly complied with,

the Local Government shall send a copy of the application, and of the declarations which accompanied it, as also a copy of the draft of the proposed instrument of settlement, to each creditor who is named in the application, and to each person who has made a declaration in pursuance of clause (11) of section 5;

and, with the previous sanction of the Governor-General in Council, shall publish a notification—

- (a) setting forth the application [except the particulars inserted therein in pursuance of clause (b) of section 4] and the declarations which accompanies it;
- (b) calling upon all creditors, whether secured or unsecured, holding or entitled to incumbrances enforceable against the applicant or the estate to which the application relates, and all other persons interested or claiming to be interested in the estate, to send to the Local Government written notice of their incumbrances and interests, respectively, within a period of six months from the date of the notification; and
- (c) intimating that any objections to the proposed settlement, whether urged by creditors or by other persons interested in the estate, which may be communicated to the Local Government in writing within the said period, will be duly considered.
- 8. (1) At any time after the expiration of the said period, and
 Rejection or approval of after considering any notices and objections application after notification.

 quiry (if any) as it may think fit to make, the Local Government may, in its discretion, by written order, either—
 - (a) reject such application, or
 - (b) grant permission to make the proposed settlement, in respect either of the whole of the property to which the application relates or of any part thereof:

Provided that, if any incumbrances have been set forth in the application or brought to the notice of the Local Government, such permission shall not be granted unless—

- (i) the incumbrances are first discharged, or
- (ii) a condition is made for the insertion in the settlement of provisions, to be assented to by the creditors and approved by the Local Government, for the discharge of the incumbrances, or for their continuance, with or without modification, and for the payment of interest thereon.

(2) If the right of the applicant to make the settlement is disputed by or on behalf of any person interested or claiming to be interested in the estate, the Local Government may, if it thinks fit, refer the matter in dispute to the Civil Court for decision, before determining whether to reject the application or to grant permission to make the proposed settlement; and the Civil Court shall, in dealing with any such reference, follow the procedure described in the Code of Civil Procedure* for the trial of suits, so far as the same may be applicable.

- (3) Every decision by the Civil Court under sub-section (2) shall be deemed to be a decree within the meaning of the Code of Civil Procedure;* and an appeal therefrom shall lie to the High Court.
- 9. The rejection under section 6 or section 8 of an application Rejection no bar to make for permission to make a settlement of an ing fresh application.

 Act shall be no bar to the making of a fresh application in respect of the same estate, if the applicant shows sufficient reason for so doing.

PART III.

PROVISIONS TO BE CONTAINED IN FIRST SETTLEMENTS.

- 10. (1) Every settlement made under the foregoing provisions

 Settlement of estates for of this Act in respect of any estate shall three generations.

 of this Act in respect of any estate shall be held for life—
 - (a) by the settler, as first tenant for life;
 - (b) and thereafter, by the second tenant for life, who shall be the eldest or only son of the first tenant for life;
 - (c) and thereafter, by the third tenant for life, who shall be the eldest or only son of the second tenant for life.
 - (2) Every such settlement shall further provide,-
 - (1) if the estate is one to which the settler was, immediately before the execution of the settlement solely entitled—that, after the life of the third tenant for life, the eldest or only son of such tenant shall hold the estate absolutely;
 - (ii) if the estate belonged, immediately before the execution of the settlement, to a joint Hindu family—that, after the life of the third tenant for life, the eldest or only son of such tenant shall during his life be the karta or manager of the estate, but without prejudice to the rights of any persons who, but for the settlement would be co-owners of the estate; and

Act V. of 1908.

1904. Act 3. 1904. Act 3. (iii) if the estate belonged, immediately before the execution of the settlement, to co-sharers—that, after the life of the third tenant for life, the eldest or only son of such tenant shall have during his life the sole right of management over the estate;

but subject in each case to the terms of any fresh settlement made by a tenant for life in pursuance of permission granted under section 16.

- (3) If the eldest or only son of the settler has predeceased the settler, or if the settler desires to exclude such son from holding, the estate on the ground of incapacity or defect of character which is proved by the settler to the satisfaction of the Local Government, then, notwithstanding anything contained in the foregoing subsections, the Local Government may permit him to provide in the settlement—
 - (1) that the second tenant for life shall be another son of the settler, if he has another son, or the eldest or only son of the son who has predeceased the settler or has been excluded as aforesaid, and
 - (ii) that the third tenant for life shall be the eldest or only son of the second tenant for life, or the eldest or only son of the son who has predeceased the settler or has been excluded as aforesaid
- (4) Any settlement made under the foregoing provisions of this Act may provide that any tenant for life may, with the previous sanction of the Local Government, by written instrument surrender his interest under the settlement in favour of the next tenant for life.
- 11. Every settlement made under the foregoing provisions of

 Further remainders. this Act may also contain provisions for
 vesting the estate, in the event of the settlement on the second tenant for life or the third tenant for life or his
 son failing to take effect, in some other person descended from the
 settler or the settler's father in the direct male line.
- 12. (1) Every settlement made under the foregoing provisions

 Further provisions in of this Act shall specify all incumbrances settlements.

 referred to in clause (21) of section 8.
- (2) Every such settlement shall also contain such provisions as may be approved by the Local Government with regard to the following matters, namely:—
 - (a) the discharge of incumbrances on the estate, and the payment of interest thereon; or their continuance (with or without modification), and the payment of interest thereon;

- (b) the maintenance of the co-owners and co-sharers (if any) 1904. by or on whose behalf a declaration has been made under clause (11) of section 5, and of all persons who at the time of the execution of the settlement are, or thereafter may be, legally entitled to maintenance out of the estate;
 - Aot 8.
- (c) the management of the estate after the death of the settler-
 - (1) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (h) of section 2, or
 - (ii) during the minority of the second tenant for life;
- (d) the management of the estate after the death of the second tenant for life-
 - (i) during a period not exceeding five years after such death pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (h) of section 2, or
 - (ii) during the minority of the the third tenant for life;
- (e) the nanagement of the estate after the death of the third tenant for life-
 - (i) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (h) of section 2, or
 - (ii) during the minority of the next holder.
- (3) it any settlement made under the foregoing provisions of this act includes money, securties for money, or moveable property, the settlement shall contain such provisions as may be approved by the Local Government for vesting such money, securities or property in a trustee, for the investment or conversion of such money or securities in or into securies authorised by section 20 of the Indian Frusts Act 1882, and for the payment to the trustee of expenses and remuneration in accordance with rules made under section 37, clause (c).

Explanation.—The Official Trustee of Bengal, the Collector or any private person may be appointed to be a trustee for the purposes of this sub-section.

(4) In addition to the various matters hereinbefore specified, the Local Government may require or permit the insertion in any settlement made under the foregoing provisions of this Act of any provision which it may think fit, and may make its approval of the

1904. settlement conditional on the insertion of provisions which it has required to be inserted:

Provided that no provisions inserted in pursuance of this subsection shall operate to the prejudice of any secured or unsecured creditor unless assented to by him.

PART IV.

SUPPLEMENTARY SETTLEMENTS AND FRESH SETTLEMENTS.

- 13. (1) At any time after a settlement has been made under the foregoing provisions of this Act, a tenant Supplementary settlement in respect of properfor life may apply to the Local Government for permission to make a supplementary settlement for the purpose of adding further property to the settled state-
 - (a) if he is competent to contract,
 - (b) if he is in possession of such property, either in his own right or along with or on behalf of others, and
 - (c) if such property is held in permanent, heritable and transferable right:
- (2) Provided that no application may be made under subsection (1) in respect of any property—
 - (i) unless the applicant is solely entitled to the property, or
 - (ii) if the property belongs to a joint Hindu family—unless the applicant is the karta or managing member of the family, or
 - (iii) if the property belongs to co-sharers—unless the applicant is a principal share-holder in the property and has, by custom or with the consent of his co-sharers, the sole right of management over the property.
- (3) The provisions of sections 4 to 9 shall apply to every application made under sub-section (1) in respect of any property, and the provisions of sections to to 12 shall apply to every settlement of auch property, as if the property were an "estate" within the meaning of those sections.
- 14. If, at any time after any settlement has been made under the foregoing provisions of this Act, the second tenant for life dies during the life of Power to apply for permission to make a supplementary settlement in resthe settler, or the settler desires to exclude pect of persons. him from holding the estate on the ground of incapacity or defect of character which is proved by the settler to the satisfacion of the Local Government.

the settler may, if he is competent to contract, apply to the Local Government for permission to make a supplementary settlement for the purpose of appointing to be second tenant for life and third tenant for life, respectively, any other persons who might have been so appointed in pursuance of clauses (i) and (ii) Act 8 of sub-section (3) of section 10.

- 15. At any time after any settlement has been made under Power to apply for permission to make a fresh settlement.

 The foregoing provisions of this Act, a tenant for life of a settled estate may, if he is competent to contract, apply to the Local Government for permission to make a fresh settlement of the estate.
- 16. (1) The provisions of section 4, sub-section (1), and section

 Procedure in dealing years of shall apply to every application for perwith applications under mission to make a supplementary settlement in respect of persons or a fresh settlement.
- (2) If any such application relates to an estate to which the settler was, immediately before the execution of the former settlements, respectively, solely entitled, the Local Government may, in its discretion, and after such inquiry (if any) as it may think fit to make, by written order, either—
 - (1) reject the application, or
 - (ii) grant permission to make the proposed settlement.
- (3) If any such application relates to an estate which belonged, immediately before the execution of the former settlements, respectively, to a joint Hindu family or to co-sharers, the application must be accompanied by a declaration by all persons (other than the applicant) who, but for such settlements, would be co-owners of or co-sharers in the estate, to the effect that they are willing to assent to the proposed settlement.
- (4) If any of such co-owners or co-sharers is, at the time when the application is made, a minor or a lunatic, a declaration under sub-section (3) of this section may be accepted if it is made and approved as indicated in sub-section (2) or sub-section (3), as the case may be, of section 5.
- (5) In every case referred to in sub-section (3) of this section, the Local Government—

shall send a copy of the application, and of the declarations which accompanied it, to each person who has made a declaration in pursuance of that sub-section;

and, with the previous sanction of the Governor-General in Council, shall publish a notification—

- (a) setting forth the application and the declarations which accompanied it;
- (b) calling upon all persons (other than creditors) interested or claiming to be interested in the estate, to send to the Local Government written notice of their interests within a period of six months from the date of the notification, and

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(c) intimating that any objections by such persons to the proposed settlement, which may be communicated to the Local Government in writing within the said period, will be duly considered;

and, at any time after the expiration of the said period and after considering any notices and objections received under this sub-section, and after such inquiry (if any) as it may think fit to make, may, in its discretion, by written order, either—

- (i) reject the said application, or
- (ii) grant permission to make the proposed settlement.
- 17. (1) The provisions of sections 10, 11 and 12 shall apply

 Provisions as to fresh settlements. to every fresh settlement made in persuance of permission granted under section
 16.
- (2) All property which, immediately before the execution of a fresh settlement in respect of any estate, is included in any former settlement of the estate made under this Act, must be included in such fresh settlement.
- (3) No property shall be included in any fresh settlement made under this Act in respect of any estate unless it is, immediately before the execution of such settlement, included in a former settlement of the estate made under this Act.
- (4) If any incumbrance, which is dealt with in any former settlement made under this Act in respect of any estate, is still in existence at the time of the execution of a fresh settlement of the estate, then nothing contained in such fresh settlement shall affect the rights of the creditor unless assented to by him.
- (5) Every fresh settlement made under this Act in respect of any estate shall, subject to the foregoing provisions of this section, supersede all former settlements made under this Act in respect of such estate.

PART V.

SETTLEMENTS GENERALLY.

Approval, stamping, and registration of settlements.

18. (1) No settlement made under this Act shall take effect unless the instrument of settlement—

- (a) is of a non-testamentary character,
- (b) is attested by two or more witnesses,
- (c) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government,

(d) bears a stamp of the full value prescribed by sub-section (2', or, if the sanction of the Board of Revenue has been given under sub-section (3), of one-third of such value, and

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- (e) is registered within three months after the said approval has been certified as aforesaid.
- (2) Every instrument of settlement made under this Act, not being a supplementary settlement referred to in section 14 or a fresh settlement referred to in section 15, shall, notwithstanding anything contained in the Indian Stamp Act, 1899* bear a stamp of a value equivalent to one-fourth of the annual net profits of the estate comprised in the settlement:
- (3) Provided that a stamp of one-third of such value may be affixed, with the previous sanction of the Board of Revenue, on arrangements being made to its satisfaction for the affixing of stamps for the rest of such value at subsequent dates within three years from the date of the instrument.
- (4) If any question arises, with reference to sub-section (2) or sub-section (3), as to the amount of the annual net profits of any estate, the decision of the Board of Revenue thereon shall be final.
- (5) Every instrument making a supplementary settlement referred to in section 14 or a fresh settlement referred to in section 15 shall, notwithstanding anything contained in the Indian Stamp Act 1899,* bear a stamp of ten rupees.
- (6) Subject to the foregoing provisions of this section, every instrument of settlement shall take effect from the date of its execution.

Approval, stamping and registration of instruments of surrender referred to in sub-section (4) of section 10 shall take effect unless it—

- (a) is of a non-testamentay character;
- (b) is attested by two or more witnesses;
- (c) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government;
- (d) is stamped in accordance with the provisions of the Indian Stamp Act 1899,* and
- (e) is registered within three months after the said approval has been certified as aforesaid.
- (2) Subject to the foregoing provisions of this section, every such instrument shall take effect from the date of its execution.

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Bar to application of Succession Act 1865,* the Probate and Adsuccession laws, in respect of property comprised in Settlement.

Certificate Act 1889,‡ it shall not be necessary for any person to obtain probate or letters of administration, or a certificate under the last-mentioned Act, to admit of his taking any property or recovering any debt or realising any security in virtue of a settlement made under this Act.

- (2) If any probate, any letters of administration or any certificate granted under the Succession Certificate Act 1889,‡ purports to cover any property, debt or security which is comprised in a settlement made under this Act, then, notwithstanding anything contained in Article 11 or Article 12 of Schedule I to the Court fees Act 1870,§ no court-fee shall be levied under either of those Articles in respect of such property, debt or security.
- Power of Local Government to grant certificate after death of tenant for life.

 Local Government may, upon the application of any person claiming a right to hold the settled estate under the instrument of settlement, grant a certificate to such person declaring him to be entitled to hold such estate under such instrument; and such certificate shall be presumed to be correct unless and until the contrary is proved.
- 22. (1) When any instrument of settlement or surrender of Notification of instru. settlement or revocation of settlement is ments of settlement and registered, the registering officer shall report the fact to the Local Government; and, on revocation of settlement receipt of such report, the Local Government shall publish a notification stating the purport of the instrument and the office in which it has been registered.
- (2) The Collector shall cause a copy of every such notification to be posted in his office, and to be published on the settled estate at such places and in such manner as may in his opinion be sufficient for giving information to tenants and other persons interested.
- 23. No settlement or part of a settlement made under this Act

 Abrogation of inconsistent laws. shall be liable to be avoided or set aside by
 any Civil Court by reason only that it
 contravenes—
 - (a) any provision of the Transfer of Property Act 1882, | or
 - (b) any law or rule for the time being in force for the prevention of perpetuities, or

^{*} Act X. of 1865.

[†] Act V. of 1881.

[‡] Act VII. of 1889. 6 Act VII. of 1870.

(c) any family custom or any personal law or law of succession to which the family is subject.

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which is inconsistent with the provisions of this Act.

PART VI.

REVOCATION, CANCELLATION, AND AMENDMENT OF SETTLEMENTS.

- **24.** (1) A tenant for life of a settled estate may, at any time, Revocation of settlement if he is competent to contract, apply to the by tenant for life Local Government for permission to revoke, either wholly or as respects any particular property, any settlement made under this Act.
- (2) The Local Government, after considering the application, and the result of any inquiry made by it or under its orders, and any further particulars or information called for by it, may, in its discretion, by written order, either—
 - (a) reject the application or
 - (b) grant the permission applied for, or
 - (c) grant permission to revoke the settlement as respects such property only as may be specified in the order.
- (3) When permission is granted under sub-section (2) to revoke a settlement, either wholly or as respects any particular property, the revocation shall not take effect unless the instrument of revocation-
 - (i) is of a non-testamentary character,
 - (ii) is attested by two or more witnesses,
 - (iii) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government,
 - (iv) is stamped in accordance with the provisions of the Indian Stamp Act 1897,* and
 - (v) is registered within three months after the said approval has been certified as aforesaid.
- (4) Subject to the foregoing provision of this section, every such instrument shall take effect from the date of its execution.
- 25. (1) Notwithstanding anything hereinbefore contained, the Local Government may at any time declare Cancellation or amendby notification that any settlement made ment of settlement by Local Government. under this Act in respect of a settled estate shall be deemed-
 - (a) to be cancelled, or

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- (b) to be amended so as to exclude any part of the estate described in the notification.
- (2) On the publication of such notification the said settlement shall be deemed to be cancelled or amended as aforesaid, as the case may be.
- Revival of incumbrances on revocation, cancellation or amendment of settlement.

 Limitation Act 1877,* revive and be enforceable as if the settlement had not been made, but subject to any payments which were made while the settlement was in force.

PART VII.

RIGHTS AND POWERS OF TENANT FOR LIFE, AND PROTECTION OF SETTLED ESTATE DURING HIS LIFE.

27. All profits of a settled estate, which are realised by a Right of tenant for life to profits of settled estate. his death, were due to him but were not realised by him, shall, subject to the other provisions of this Act, belong absolutely to such tenant or his heirs, executors, administrators or assigns:

Provided that, if any rents due to a tenant for life in respect of a settled estate were in arrear immediately before his death, the same shall, upon his death, notwithstanding anything contained in this Act, or in the Indian Succession Act 1865,† or in any other law, or in any settlement made under this Act, and notwithstanding any will or other disposition made by such tenant, become due to the next holder of the estate.

- 28. Except as provided in sections 29 and 30, a tenant for Restriction on alienation life of a settled estate shall not be entitled by tenant for life. to transfer by way of sale or gift, or otherwise alienate, or to create any incumbrance upon, or to lease, the estate, or any part thereof, or to assign his right to receive any of the profits thereof.
 - 29. (1) A tenant for life of a settled estate may, with the previous written sanction of the Civil Court, sell the estate or any part thereof.
- (2) If the estate belonged, immediately before the execution of the settlement, to a joint Hindu family or to co-sharers, the Court shall, before determining to accord such sanction, notify the proposed sale to all persons (except the tenant for life) who, but

for the settlement, would be co-owners or co-sharers in the estate; and shall hear and duly consider any objection which may be advanced by them or on their behalf.

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- (3) The proceeds of every such sale shall be paid by the purchaser to the Collector; and shall be held by the Collector in trust to re-invest the same, with the approval of the Local Government, in immoveable property, which shall, upon such re-investment, be and remain subject to the settlement in like manner as if it had been originally comprised therein.
- 30. (1) A tenant for life of a settled estate may lease the estate or any part thereof from year to year or for any term not exceeding seven years, or (with the previous written consent of the Collector) for any longer term not exceeding fourteen years, or (with the previous sanction of the Local Government) for any longer term of years or in perpetuity.
- (2) No premium or fine shall be taken on any such lease granted for a term exceeding seven years, or in perpetuity, except with the previous written consent of the Collector.
- (3) When any premium or fine is taken on any lease granted under sub-section (1), then—
 - (a) if the lease is from year to year or for a term of years, a sum equivalent to four-fifths of the amount of the premium or fine, or
 - (b) if the lease is in perpetuity, the whole of the premium or fine shall be paid—
 - (i) to the trustee appointed for the purposes of section 12, sub-section (3), or
 - (ii) if no trustee has been so appointed, to a trustee to be appointed for the purpose;

and shall be held by such trustee as part of the settled estate, and shall be invested by him in securities authorised by section 20 of the Indian Trusts Act, 1882:*

Provided that such trustee may retain, for the payment of his expenses and remuneration such portion of the amount paid to him as may be authorised by rules made under section 37, clause (c).

- (4) In respect of every such lease the best rent shall be reserved that can reasonably be obtained.
- (5) No payment of any instalment of such rent made to a tenant for life before it falls due shall operate to the prejudice of any subsequent holder of the estate.
- 31. Nothing in section 28 or sub-sections (1) and (2) of sec-Saving of leases of rai. tion 30 shall apply to leases of raiyati holdyati holdings.

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- 32. (r) No settled estate or part thereof shall, during the life

 Bar to sale of settled es. of a tenant for life, be sold in execution of tate in execution of decree. a decree of a Civil Court.
- (2) If any decree against a tenant for life of a settled estate is not satisfied, the Court may, on the application of the decree-holder, appoint a Receiver of such estate or any part thereof, under the provisions of Chapter XXXVI. of the Code of Civil Procedure,* for the purpose of recovering the amount of the decree subject and, to the rights of any secured creditor over such estate or part, satisfying the claims of the decree-holder.
- (3) An appeal shall lie to the High Court from any order made by a Court under sub-section (2).
- 33. (1) Notwithstanding anything contained in the Bengal Sale of settled estate for Land revenue Sales Act, 1859,† or any arrears of land-revenue, &c. other law, no settled estate or part of a settled estate shall, without the previous sanction of the Local Government, be sold, during the life of any tenant for life thereof, for an arrear of land-revenue or for any other arrear which is recoverable in the same manner as an arrear of land-revenue.
- (2) If any settled estate or part of a settled estate be sold, with the sanction required by sub-section (1) of this section, to any person other than the tenant for life, the resulting surplus shall be dealt with in the manner described in sub-section (3) of section 29;
- and, if the estate or any part thereof be purchased at the sale by the tenant for life, the resulting surplus shall be paid to the tenant for life, and the estate or part so purchased shall, notwithstanding the sale, continue to the subject to the settlement.
- (3) If the person whose name is entered in any certificate granted under the said Bengal Land-revenue Sales Act, 1859,† or any other law, as purchaser of a settled estate or part thereof, is not the tenant for life, the said resulting surplus may be retained by such person, and shall not be payable to the tenant for life, even though it may be claimed that the purchase was made by such person on hehalf of the tenant for life.
- 34. (1) If any such arrear accrues in respect of a settled Procedure for recovery of estate, or any part thereof, during the life such arrears.

 of any tenant for life thereof, and if the sale of the estate or part for the recovery of the arrear is not sanctioned by the Local Government under section 33, the Collector may attach the estate or part,

and shall thereupon be entitled, to the exclusion of all other persons, to receive all rents and other moneys (if any) due to such tenant in respect of such estate or part,

and may manage the estate or part, either directly or through a manager, for such period as may be necessary for the recovery of such arrear.

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- (2) Upon the expiration of the period referred to in subsection (1), the Collector shall deduct from the proceeds of the management the amount of the said arrear and of any similar arrears that may have accrued during such period, and any interest due thereon, and the expenses incurred in the management; and shall then—
 - (a) pay the balance of such proceeds to the person then entitled to hold the estate, and
 - (b) furnish such person with an account of the receipts and expenditure during the management, and
 - (c) release the estate or part to such person.
- (3) If, after a settled estate or part thereof held by a tenant for life has been managed and released by the Collector under subsections (1) and (2), any such arrear as aforesaid again accrues in respect of the estate or part during the life of the same tenant, and if the sale of the estate or part thereof for the recovery of the arrear is not sanctioned by the Local Government under section 33.

the Court of Wards may take charge of and deal with the estate or part under the provisions of the Court of Wards Act 1879*; and may retain such charge until the death of such tenant and, if the next holder is then a minor, until such minor attains his majority;

and the said tenant shall, while the Court of Wards has charge of the estate or part, be debarred from receiving any income from the estate or part, other than such monthly sum as the Court of Wards may allow for the support of himself and his family;

and the powers conferred by sections 29 and 30 of this Act shall, while the Court of Wards has charge of the estate or part, be exercisible by the Court of Wards and not by the said tenant.

PART VIII.

MISCELLANEOUS.

Form, publication and duration of permissions granted by Local Government section 8, section 10, sub-section (3), section 12, sub-section 12, sub-section 13, section 16 or section 24 shall be in writing signed by one of the Secretaries to the Local Government, and shall contain a description of the property or person in respect of which the permission is granted, sufficient to identify the same.

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- (2) Every permission granted by the Local Government under section 8, section 13, section 16 or section 24 shall be published by notification, and shall remain in force until the expiry of twelve months from the date of the notification, or until the death of the applicant, whichever first happens.
- Notifications how to be in the Calcutta Gazette [and also in such vernacular Gazettes (if any) as the Local Government may direct].*
 - 37. (1) The Local Government may, after previous publication, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing provision, the Local Government may make rules for all or any of the following matters, namely:—
 - (a) the procedure to be followed in submitting an application to the Local Government under this Act;
 - (b) the form and contents of such applications, and the documents (if any) which should accompany them;
 - (c) the payment to trustees, out of the trust property, of expenses properly incurred in or about the execution of any trust created under this Act, and of remuneration for their trouble, skill and loss of time in executing any such trust;
 - (d) the guidance of the Collector in managing estates attached under section 34;
 - (e) the payment or recovery of any expenses incurred by the Government in connection with any proceedings taken under this Act.
- 38. The provisions of the Court of Wards Act 1879,† so far Application of Court of as they are not inconsistent with the terms Wards Act, 1879. of settlements duly made under this Act, shall be applicable to settled estates.

Saving of rights of secured creditors.

39. Nothing in this Act shall affect the rights of any secured creditor—

- (a) if his imcumbrances or any of them have not been set forth in the list prescribed by setion 4, clause (c) or
- (b) if he has not assented to any condition inserted in a settlement made under this Act for the discharge or continuance of his incumbrances or any of them.

^{*}The words within brackets have been repealed in the presidency of Bengal by Ben. Act I. of 1914.
† Ben. Act IX. of 1879.

BEN. ACT. NO. I. OF 1905.

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The Sundarbans Act, 1905.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act to provide for the abolition of the Office of Commissioner in the Sundarbans.

WHEREAS it is expedient to abolish the Office of Commissioner in the Sundarbans;

And whereas the previous sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Sundar-bans Act, 1905.

- 2. The Sundarbans Regulation, 1816,† and clause Second of Repeal of enactments.

 section 13 of the Bengal Land-Revenue Assessment (Resumed Lands) Regulation, 1828,‡ and so much of the Repealing and Amending Act, 1903,§ as relates to the said Sundarbans Regulation, 1816, are hereby repealed.
- 3. All the powers and functions heretofore vested in, and Collectors to exercise powers and functions of Comers and functions of Commissioner in the Sundarbans in any district shall henceforth be vested in, and exercisible by, the Collector of that district.
- 4. In every written instrument relating to land in the Sundar-Construction of references bans executed prior to the commencement in written instrument. of this Act all references to "the Commissioner in the Sundarbans" shall be construed as referring to the Collector of the district in which the land or any part of it is situated.

^{* 55 &}amp; 56 Vict., c. 14.

[†] Act IX, of 1816,

[‡] Act III. of 1828. § Act I. of 1903.

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BEN. ACT NO. II. OF 1905.

The Bengal Repealing Act, 1905.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act to repeal the Bengal Contagious Diseases (Animals) Act, 1880.

WHEREAS it is expedient to repeal the Bengal Contagious Diseases (Animals) Act, 1880;* It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Bengal Repealing Act, 1905; and

(2) It shall come into force on such day as may be appointed by the Local Government by notification in the Calcutta Gazette.

Repeal of Ben. Act VIII. 2. The Bengal Contagious Diseases of 1880. (Animals) Act, 1880, is hereby repealed.

BEN. ACT NO. III. OF 1905.

The Bengal Smoke-nuisances Act, 1905.

CONTENTS.

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- 3. Definitions.
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- 5. Appointment of Inspectors.
- Power to prohibit the erection of kilns or furnaces, or the manufacture of coke, in specified areas.
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SECTIONS.

- Penalty when smoke is emitted to a greater extent than is permitted by rules.
- 9. Powers of Inspectors.
- 10. Rules.
- 11. Cognizance of offences.
- 12. Disposal of fines.
- 13. Repeal.

^{*} Ben. Act, VIII. of 1880.

BEN. ACT NO. III. OF 1905.

1905. Act 3.

The Bengal Smoke-nuisances Act, 1905.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act to amend the law relating to abatement of nuisances arising from the smoke of furnaces or fire-places in the town and suburbs of Calcutta and in Howrah, and to provide for the extension thereof to other areas in Bengal.

WHEREAS it is expedient to amend the law relating to the abatement of nuisances arising from the smoke of furnaces or fireplaces in the town and suburbs of Calcutta and in Howrah, and to provide for the extension thereof to other areas in Bengal;

It is hereby enacted as follows:-

Short title and extent.

1. (1) This Act may be called the Bengal Smoke-nuisances Act, 1905; and

- (2) It extends in the first instance to—
 - (a) the town of Calcutta, as defined in section 3 of the Calcutta Police Act, 1866;*
 - (b) the suburbs of Calcutta, as for the time being defined by notifications published under section 1 of the Calcutta Suburban Police Act, 1866,† and
 - (c) the station of Howrah, as described in the Schedule to the Howrah Offences Act, 1857.‡
- 2. (1) The Local Government may, by notification published in the Calcutta Gazette and in such other manner (if any) as the Local Government may determine, declare its intention to extend this Act to any specified area in Bengal other than the areas mentioned in section 1, sub-section (2):

Provided that, if a military cantonment is situated within any area to which it is proposed to extend this Act, no notification shall be published under this sub-section in respect of such area without the previous sanction of the Governor-General in Council.

- (a) Any inhabitant of an area to which it is proposed to extend this Act may, if he objects to such extension, submit his objection in writing to the Local Government within a period of three months from the publication of the said notification in the Calcutta Gazette.
- (3) At any time after the expiration of the said period, and after considering the objections (if any) submitted under subsection (2), the Local Government may, by notification in the Calcutta casette extend this Act to the said area.

^{*} Ben. Act IV. of 1866. † Ben. Act II. of 1866. ‡ Ben. Act XXI. of 1857.

1905. Definitions.

3. In this Act,-

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- *"(1) 'furnace' means any furnace or fireplace used-
 - (a) for working engines by steam, or
 - (b) for any other purpose whatsoever.

Provided that no furnace or fireplace-

- (i) used for the burning of the deed, or
- (ii) used in a private house for bond fide domestic purposes other than the purpose specified in clause (a),

shall be deemed to be a furnace or fireplace within the meaning of this Act."

- (2) "Inspector" means a Chief Inspector of Smoke-nuisances, or an Assistant Inspector of Smoke-nuisances, appointed under this Act;
- (3) "the Commission" means the Bengal Smoke-nuisances Commission constituted under this Act;
- (4) the expression "owner," when used with reference to a furnace, includes any agent or hirer using the furnace, and any foreman or other person superintending the working of the furnace; and
- (5) "Magistrate" means a Presidency Magistrate, a Magistrate of the first class or a Bench of Magistrates exercising first class powers under the Code of Criminal Procedure.†
- 4. (1) The Local Government shall, by notification in the Constitution of Commission.

 Calcutta Gazette, constitute a Commission, to be called the Bengal Smoke-nuisances
 Commission, to supervise and control the working of this Act.
- (2) The said Commission shall consist of a President and so many other members as the Local Government may determine.
- (3) "Not more than one half of the members (including the President)"* shall be officials nominated by the Local Government; and the remainder shall be non-officials nominated, in such manner as the Local Government may direct, by bodies or associations whose interests are likely to be affected by this Act.
- (4) Subject to the provisions of sub-section (3), all members of the Commission shall be appointed, and all vacancies in the Commission shall, as occasion requires, be filled up, by the Local Government by notification in the Calcutta Gasette.
- (5) No act done by the Commission shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Commission.

† Act V. of 1898.

^{*} The words within quotations have been substituted by Ben. Act I. of 1916.

5. (1) The Local Government may, by notification in the Appointment of Inspect. Calcutta Gazette appoint a Chief Inspector ors. of Smoke-nuisances and so many Assistant Inspectors of Smoke-nuisances as it may think fit.

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- (2) Every Assistant Inspector appointed under sub-section (1) shall be subordinate to the Chief Inspector, and all Inspectors shall be subordinate to and subject to the control of, the Commission.
- "(3) Every Inspector appointed under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code."*

Power to prohibit the erection of kilns or furnaces or the manufacture of coke, in specified areas.

6. (1) The Local Government may, by notification in the (alcutta Gazette, prohibit, within any specified area,—

- (a) "the erection or use of any specified class of brick, tile or lime-kilns, or "†
- (b) the erection "or use" to furnaces to be used for the calcining or smelting of ores or minerals, or for the casting, puddling or rolling of iron or other metals, or for the conversion of pig-iron into wrought-iron, or
- (c) the manufacture of coke, in ovens, or with special appliances, or
- (d) the making of coke without ovens or special appliances: Provided that where, prior to the issue of such notification, a license has been granted by the Chairman of the Calcutta Corporation under the provisions of Chapter XXXIII. of the Calcutta Municipal Act, 1899,‡ for the erection of a furnace to be used for any of the purposes mentioned in clauses (a) and (b), or for the manufacture of coke as described in clauses (c) and (d), such notification shall not affect such furnace or such manufacture.
- (2) If any kiln or furnace be erected "or used" in contravention of any notification issued under sub-section (1), clause (2) or clause (b), the owner thereof shall be liable to fine which may extend to two hundred and fifty rupees.
- (3) If any person manufactures coke in contravention of any notification issued under sub-section (1), clause (c), he shall be liable to fine which may extend, on a first conviction, to two hundred and fifty-rupees, and on any subsequent conviction to five hundred rupees.
- "(4) If any person makes coke in or upon any building or land in contravention of any notification issued under sub-section (1), clause (d),—

^{· *} Section 5, sub-section (3) has been added by Ben. Act 1. of 1916.

[†] The words within quotations have been substituted or added by Ben. Act I. of 1016.

[‡] Ben. Act III. of 1899.

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- (a) such person, and
- (b) the owner (if he knowingly permits the coke to be made by such person) or the occupier of such building or land

shall be jointly and severally liable to fine which may extend, on a first conviction to twenty five rupees, and on any subsequent conviction to fifty rupees; and the coke so made may be seized by an Inspector pending the order of the Magistrate.

- (5) In any prosecution under sub-section (4), the Magistrate may, besides imposing a fine as aforesaid, record an order directing the confiscation of any coke seized as in that sub-section provided; and, in such a case, it shall be lawful for the Commission to dispose of the same in such manner as the Local Government may, by rule made under section 10, prescribe.
 - (6) For the purposes of sub-section (4),—
 - (i) the expression "occupier" means any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the building or land in respect of which the word is used, and includes an owner living in, or otherwise using, his own building or land; and
 - (ii) the expression "owner" includes the person for the time being receiving the rent of any building or land or of any part of any building or land, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a Receiver, or who would so receive such rent if the building, land or part thereof were let to a tenant."*
- 7. (1) Whenever a Magistrate imposes a fine on any person under section 6, sub-section (2), for erecting "or using"* a kiln or furnace in contravention of any notification issued under section 6, sub-section (1), clause (2) or clause (b), he may by order direct such person to demolish the kiln or furnace within a period to be specified on the order.
- (2) If any person fails to demolish any kiln or furnace within the period prescribed in any such order, or within such longer period as the Magistrate may, for special reason, allow, he shall be liable to fine which may extend to twenty rupees for every day thereafter during which such failure continues.
- 8. (1) If smoke be emitted from any furnace in greater density

 Penalty when smoke is or at a lower altituted, or for a longer time, than is permitted by rules made under this han is permitted by rules.

 Act, the owner of the furnace shall be liable

^{*} The words within quotations have been substituted or added by Ben. Act I. of 1916.

to fine which may extend, on a first conviction, to fifty rupees, on a 1905. second conviction to one hundred rupees, and on any subsequent conviction to two hundred rupees.*

†"8A. (1) After the commencement of the Bengal Smokenuisances (Amendment) Act, 1916,

Submission of plans, and

- (a) no furnace, flue or chimney shall be erected, and
- (b) no furnace, flue or chimney erected prior to the commencement of the said Act shall be re-erected, altered or added to

otherwise than in accordance with plans approved by the Commission.

(2) In the event of any contravention of the provisions of subsection (1) the owner of the furnace, flue or chimney, as the case may be, shall be liable to fine which may extend to one hundred rupees, and, if any such furance, flue or chimney is used without the permission of the Commission, to a further penalty, not exceeding twenty rupees, for every day during which such wrongful use continues."

Powers of Inspectors.

- 9. (1) An Inspector may, after giving reasonable notice in writing to the owner, manager, engineer or person in charge,—
- (a) enter and inspect, during working-hours, any, building or place which contains a furance, and inspect such furance;
- (b) under the written authority of the Commission use and test any appliance used for preventing the emission of smoke from any such furance; and
- (c) under the written authority of the Commission, direct that any such furance be worked or stoked experimentally, during his visit to such building or place, in any manner which he may consider suitable for preventing or reducing the emission of smoke, but not so as to interfere with the business carried on in such building or place further than is necessary for the purposes of the experiment.
- (2) If any owner of a furnace in respect of which a direction is given under clause (c) fails to secure compliance with such direction, he shall be liable to fine which may extend to one hundred rupees.
- "(3) Notwithstanding anything contained in sub-section (1), the Commission, and, in any urgent case, the President may, by

Section 8, sub-section (2) has been repealed by Ben, Act I, of 1916.

[†] Section 8A has been added by Ben. Act 1. of 1916.

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41.

order in writing which shall be produced on demand to the owner, occupier, manager, engineer or person in charge, authorise any Inspector to enter and inspect without notice and at any time by day or by night any building or place in which the Commission or the President, as the case may be, has reason to belive that a furnace exists or that coke is being made, and to inspect such furnace, building or place:

Provided that if, in any such building, which is a private dwelling-house, there is an apartment in the actual occupancy of a woman who, according to custom, does not appear in public, such Inspector shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing.

- (4) Whenever the President makes any order under sub-section (3), he shall, as soon thereafter as conveniently may be, report the fact to the Commission."*
 - 10. (1) The Local Government may, and after previous publication, make rules to carry out the objects of this Act.
- (2) In particular, and without prejudice to the generality of sub-section (1), such rules may—
 - (a) regulate the transaction of business by the Commission;
 - (b) prescribe the powers and duties to be exercised and performed by the Commission and by Inspectors, respectively, and regulate the exercise and performance of those powers and duties;
 - (c) prescribe a scale for the purpose of determining the density of smoke;
 - (d) prescribe the density of smoke that may be emitted from a furnace;
 - (e) prescribe the time during which smoke of such density may be emitted from a furance;
 - "(f) regulate, with due regard to the safety of shipping, the emission of smoke from the furnaces of vessels;"‡
 - (g) prescribe the altitude below which smoke may not be emitted from a furnace;
 - (h) prescribe a procedure for the giving of warning to offenders before instituting a prosecution under this Act, and declare the minimum period which should be allowed to elapse in different classes of cases between the giving of such warning and the institution of a prosecution:

^{*} Sub-sections 3 and 4 to section 9 and clauses (j), and (h), in 10 (2) have been added by Ben. Act I, of 1916.

[†] Here certain word or words have been repealed by Ben. Act I. of 1916. † The words within quotations have been added by Ben. Act I. of 1916.

(i) authorise the payment of a fee, not exceeding thirty-two rupees, to each or any member of the Commission attending a meeting of the Commission.

1905 Act 3.

- "(j) regulate the disposal of coke confiscated under section 6, sub-section (5); and
- (k) prescribe a procedure to give effect to the provisions of section 8A."
- (3) The date to be specified in accordance with clause (3) of section 24 of the Bengal General Clauses Act, 1899,* as that after which a draft of rules proposed to be made under this section will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.
- (4) Any rule to be made under this Act shall, before it is published for criticism under sub-section (1), be referred to the Commission constituted under section 4, and the rule shall not be so published until the said Commission has reported as to the expediency of making the proposed rule and as to the suitability of its provisions.
- (5) All rules made under this section shall be published in the Calcutta Gazette.

Cognizance of offences.

11. A Magistrate may take cognizance of an offence against this Act only—

- (a) upon a complaint made by, or with the written authority of, the Chief Inspector, and
- (b) within a period of two months from the date of the commission of the offence.
- 12. All fines recovered under this Act shall be disposed of in such manner as the Local Government may direct.

Repeal.

13. The Calcutta and Howrah Smokenuisances Act, 1863,† is repealed.

Ben. Act I. of 1899.

[†] Ben. Act II. of 1863.

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1905. Act 4.

BEN. ACT NO. IV. OF 1905.

The Calcutta Port (Amendment) Act, 1905.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act to amend the Calcutta Port Act, 1890.

WHEREAS it is expedient to amend the Calcutta Port Act, 1890;*

It is hereby enacted as follows:—

Short title.

- 1. This Act may be called the Calcutta Port (Amendment) Act, 1905.
- 2. In section 5 of the Calcutta Port Act, 1890,* for the word

 Amendment of section 5.

 "fifteen" the word "sixteen" shall be substituted, and for the word "eight" the word "nine" shall be substituted.
 - 3. In section 6, sub-section (1), of the said Act, for the word "five" the word "six" shall be substituted.

Amendment of section 35.

- 4. After clause (7) of section 35 of the said Act the following shall be inserted, namely:—
- "(7a) the building of vessels for the carrying of passengers and their personal effects within, or partly within and partly without, the limits of the port."

Insertion of new section 105A.

5. After section 105 of the said Act the following shall be inserted, namely:—

Charges for carrying passengers and their personal effects on Commissioners' vessels.

- "105A. The Commissioners shall also frame a scale of charges for the carrying of passengers and their personal effects on vessels belonging to or hired by the Commissioners."
- 6. In section 106 of the said Act, for the words "for hire"

 Amendment of section the words "whether for hire or not, and"

 shall be substituted.

^{*} Ben. Act III. of 1890.

BEN. ACT NO. V. OF 1905.

1905. Act 5.

The Chota Nagpur Tenancy (Amendment) Act, 1905.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act further to amend the Chota Nagpur Landlord and Tenant Procedure Act.

WHEREAS it is expedient further to amend the Chota Nagpur Landlord and Tenant Procedure Act* in the manner hereinafter appearing: It is hereby enacted as follows:—

Short title.

- 1. This Act may be called the Chota Nagpur Tenancy (Amendment) Act, 1905.
- 2. The words "and of all particulars recorded in such entries"

 Amendment of Bengal shall be inserted after the words "the nature

 Act I. of 1879, section 164. and incidents of such tenancies" in section

 164 of the Chota Nagpur Landlord and Tenant Procedure Act,*

 as amended by section 47 of the Chota Nagpur Tenancy (Amendment) Act, 1903,† and shall be deemed to have been so inserted

 from the date on which the latter Act came into force.

BEN. ACT NO. VI. OF 1905.

The Calcutta and Suburban Police (Superannuation Fund) Act, 1905.

Passed by the Lieutenant-Governor of Bengal in Council.

An Act to abolish the Calcutta and Suburban Police Superannuation

WHEREAS it is expedient to abolish the Calcutta and Suburban Police Superannuation Fund;

It is hereby enacted as follows:-

Short title.

- 1. This Act 'may be called the Calcutta and Suburban Police (Superannuation Fund) Act, 1905.
- 2. The enactments specified in the first column of the Schedule, are hereby repealed, to the extent mentioned in the third column thereof.
- 3. All sums standing to the credit of the Calcutta and Suburban Police Superannuation Fund shall vest in His Majesty, to be applied, under Police Superannuation rules made by the Local Government in this behalf, towards the grant of pensions

^{*} Ben. Act I. of 1879.

1248 CAL. & SUBN. PQLICE SUPERN. FUND ACT.

Act 5.

or gratuities to members of the Police force of the town or suburbs of Calcutta.

THE SCHEDULE. ENACTMENTS REPEALED.

1		2	3
Number and year.		Short title.	Extent of repeal.
		Acts of Brngal Council.	
II. of 1866	•••	The Calcutta Suburban Police Act, 1886.	So much of section 10 as has not been repealed.
		The Calcutta Police Act, 1866.	So much of section 16 as has not been repealed.
1. or 1899	•••	The Calcutta and Suburban Police (Superannuation Fund) Act, 1890.	So much as has not been repealed.

BEN. ACT NO. I. OF 1906.

The Bengal Court of Wards (Amendment) Act, 1906.

CONTENTS.

SECTIONS.

- 1. Short title.
- 2. Partial repeal of section 9 of Bengal Act IX. of 1879.
- 3. Insertion of new sections 10A to 10E. 10A. Notice to creditors.
 - 10B. Creditors to furnish full particulars and documents.
 - toC. Stay of proceedings of Civil
 - 10D. Adjudication of claims,
 - 10E. Relinquishment of inextricably involved estates.
- 4. Insertion of new section 13A in Bengal Act IX. of 1879.

SECTIONS.

- 13A. Power of Court to retain charge of property of disqualified proprietor until discharge of debts.
- 5. New section 34A.
 - 34A. Recovery of expenses incurred by Collector under sections 31 to 33.
- 6 Partial repeal of section 56.
- 7. Insertion of new section 59A.
- 59A. Persons employed by Court to be "public servants."
- Insertion of new section 60B,
 60B. Certain persons to be deemed to be wards.
- 9. Repeal of section 62.
- 10. New section 64A. 64A. Publication of notices.

BEN. ACT NO. I. OF 1906.

1906

The Bengal Court of Wards (Amendment) Act, 1906.

Act 1.

PASSED BY THE LIGUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act to amend the Court of Wards Act, 1879.

WHEREAS it is expedient to amend the Court of Wards Act, 1879;*

And whereas the previous sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,† to the provisions of this Act which affect Acts passed by the Governor-General of India in Council;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Bengal Court, of Wards (Amendment) Act, 1906.

2. In section 9 of the Court of Wards Act, 1879* [as amended Partial repeal of section 9 by the Court of Wards Act (Bengal) Amendof Bengal Act IX. of 1970. ment Act, 1892‡], the words. figures and letters from "And in any case in which the Court has taken charge" to the end of the section are hereby repealed.

Insertion of new sections to A to 10E.

- 3. After section 10 of the said Court of Wards Act, 1879,* the following shall be inserted, namely:—
- "IOA. (1) Whenever the Court of Wards assumes charge of Notice to creditors.

 any person or property under section 7 or section 10, it shall publish in the manner provided in section 64A a notice calling upon all creditors having claims against the ward or his immoveable property to submit the same in writing to the Court, at a place to be named in the notice, within six months from the date of the publication of the notice aforesaid.
- (2) Every such claim (other than, a claim on the part of the Government) not submitted to the Court in compliance with the provisions of sub-section (1), shall, save in the case-provided for by section 10E, sub-section (2), clause (c), notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid:

Provided that, if the Court is satisfied that the creditor was prevented by any sufficient cause from complying with the provisions of sub-section (1), it may consider and allow, either wholly or in part, his claim for interest at any time after the date of the expiry of the period aforesaid.

Ben. Act IX, of 1879.

[†] Stat. 55 & 56 Vict., c. 14.

1906. Act 1.

- "10B. (1) Every creditor submitting his claim in compliance Creditors to furnish full with the provisions of section 10A, sub-secparticulars and documents. tion (1), shall furnish, along with his written statement of claim, full particulars thereof, and shall, within such time as the Court may appoint, produce all documents which are in his possession, power or control (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document.
- (a) The Court shall, after marking, for the purpose of identification; every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.
- (3) If any document, which to the knowledge of the creditor is in his possession, power or control, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the ward, whether during the continuance of the management or afterwards, in any suit brought by the creditor or by any person claiming under him in respect of such claim.
- "IOC. If a Civil Court has directed any process of execution Stay of proceedings of to issue against any immoveable property Civil Courts. of a ward or the rents thereof or any crops standing thereon, the Court of Wards may, at any time within one year after it assumed charge of such property, apply to the Civil Court to stay proceedings in the matter of such process; and the Civil Court may, on such terms regarding interest or compensation for delay as may appear to it to be just and reasonable, stay such proceedings for such period as it may deem fit.
- "10D. (1) On receipt of all claims submitted in compliance with the provisions of sections 10A and 10B, the Court shall proceed to investigate such claims and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.
- (2) When the Court has admitted any claim under sub-section (1), it may make to the creditor a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both; and, if such proposal, or any modification of it, is accepted by the creditor and his acceptance is finally recorded and attested by the Court, it shall be conclusively binding upon the creditor and upon the ward:

Provided that, if when the superintendence of the property by the Court is relinquished or otherwise terminates, any portion of the claim reduced as aforesaid is still unsatisfied, the creditor shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (1) as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a ward or his property which has been submitted to the Court of Wards:

1906. Act 1.

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

- (4) In calculating the period of limitation applicable to suits for the recovery of a claim which has been submitted to the Court of Wards, the period from the date of submission of the claim up to the date of the communication of the Court's decision thereon to the creditor shall be excluded.
- "10E. (1) The Court of Wards may, after making an investiRelinquishment of inex. gation under section 10D, when it appears
 tricably involved estates. to the Court that the estate is involved beyond all hope of extrication, or for any other sufficient reason, by
 notice published in the manner provided in section 64A, declare
 that it will, on a date to be fixed by the notice, relinquish charge
 of the property and person (or of the property as the case may be)
 of the ward under this section.
 - (2) On the date so fixed—
 - (a) such charge shall terminate:
 - (b) the owner of the said property shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property; and
 - (c) the claims for interest barred under section 10A, subsection (2), shall revive in case the debt or liability in respect of which the interest is claimed be not then barred by any law of limitation.
- (3) In calculating the periods of limitation applicable to suits to recover claims for interest revived under this section, the time during which such charge has continued shall be excluded."

"13A. If, when any disqualified proprietor dies, or ceases to

Power of Court to retain
charge of property of disqualified within the meaning of this
Act, there remain undischarged any debts or
liabilities which were incurred by, or are
due from, such proprietor, or which are a
charge upon his property or any part thereof,

then, notwithstanding anything contained in the foregoing sections, the Court may either withdraw from the charge of such property or retain such charge until such debts and liabilities, as the Court considers necessary to be discharged, together with all interest due thereon, have been discharged:

1906. Act 1.

Provided that, after the death of a proprietor, the Court shall not retain charge on account of any debt or liability which has been declared by a competent Civil Court not to be binding on his representative."

5. After section 34 of the said Act, the New section 34A. following shall be inserted, namely:—

- "34A. All expenses incurred by a Collector in taking action under section 31, section 32 or section 33 Recovery of expenses incurred by Collector under in respect of any person shall, if the prosections 31 to 33. perty of such person is not taken under the charge of the Court, be recoverable from such person or from the person whom the Collector finds to be in possession of such property, under the procedure provided by the Public Demands Recovery Act, 1895,* for the recovery of public demands."
- 6. The words from "or to a proprietor" to the end of section 56 of the Court of Wards Act, 1879† [as Partial repeal of section amended by the Court of Wards Act (Bengal) Amendment Act, 18921 are hereby repealed.

Insertion of new section 59A.

7. After section 50 of the said Act, the following shall be in serted, namely:—

Persons employed by Court to be "public servants."

- "59A. Every person employed by the Court under this Act shall, for the purposes of the Indian Penal Code, be deemed to be a public servant."
- 8. After section 60A of the Court of Wards Act, 1879† [as amended by the Court of Wards Act Insertion of new section (Bengal) Amendment Act, 1892],‡ the fol-60B. lowing shall be inserted, namely:-
- "60B. For the purposes of Part VII. and sections 60 and 60A, Certain persons to be a person whose property is under the charge of the Court of Wards by virtue of deemed to be wards. the second clause of section 11, or charge of whose property has been retained under section 13A, shall be deemed to be a 'ward,' but only so far as regards such property."

Repeal of section 62.

9. Section 62 of the Court of Wards Act, 1879, is hereby repealed.

New section 64A.

10. After section 64 of the said Act, the following shall be inserted, namely:-

"64A. Any notice required to be published by the provisions of sub-section (r) of section 10A, or of sub-Publication of notices. section (1) of section 10E, shall be published-

^{*} Ben. Act I. of 1808

¹ Act IV. of 1802. Act XLV. of 1860. † Ben. Act IX. of 1879.

(a) in the English and in the vernacular official Gazettes;

1906

- (b) in at least three issues each of one English and one Act 1.

 Vernacular newspaper published in Calcutta;
- (c) in two issues of a newspaper (if any) published in the district or Division in which the ward ordinarily resides, or has last resided; and
- (d) by posting such notice on the notice-boards in the offices of the Collector and of the Judge of the district in which the place named in the notice is situate."

BEN. ACT NO. II, OF 1906.

The Bengal Land Registration (Amendment) Act, 1906.

CONTENTS.

SECTIONS.

- 1. Short title and commencement.
- 2. Amendment of Bengal Act VII. of 1876. section 3, clauses (2), (6) and (7)
- 3. Amendment of section 13.
- 4. Amendment of section 15.
- 5. New sections 19A and 19B.
 - 19A. Power of Board to issue orders as to record of matters required to be entered in Register A or Part I. of Register D.
 - 19B. Act to be read subject to orders so issued.
- Amendment of section 24.
 Addition to sections 28 and 83.

SECTIONS.

- 8. Addition to section 30.
- 9. Amendment of section 31.
- 10. Amendment of section 53.
- 11. New section 53A.
 53A. Record of evidence in inquiries.
- 12. Amendment of section 64.
- 13. Addition to section 70.
- 14. New section 74A.
 - 74A. Power of Collector to close a separate account otherwise than upon application.
- 15. Amendment of section 77.
- 16. Repeals.

1906. Act 2.

BEN. ACT NO. 11. OF 1906.*

The Bengal Land Registration (Amendment) Act, 1906.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUCIL.

An Act to amend the Land Registration Act, 1876.

WHEREAS it is expedient to amend the Land Registration Act, 1876;† It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Bengal Land Registration (Amendment) Act, 1906; and

(2) It shall come into force on such date as the Local Government may, by notification in the *Calcutta Gazette*, appoint in this behalf.

Amendment of Bengal Act VII. of 1876, section 3, clauses, (2), (6) and (7).

2. (1) To sub-clause (c) of clause (2) of section 3 of the Land Registration Act, 1876,† the following words shall be added, namely:—

"or on any other register prescribed for the purpose by rule made under this Act."

- (2) To clause (6) of the same section the words "or as a trustee or executor" shall be added.
- (3) For clause (7) of the same section the following shall be substituted, namely:—
- "(7) 'mauza' means the area defined, surveyed and recorded as a distinct and separate mauza in—
 - (a) the general land-revenue survey which has been made of the Province of Bengal, or
 - (b) any survey made by the Government which may be adopted by notification in the Calcutta Gasette as defining mauzas for the purposes of this clause in any specified area;

and, where a survey has not been made by or under the authority of the Government, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a mauza."

3. (1) In section 13 of the said Act, after the word "such," where it first occurs, the following words shall be inserted, namely:—

^{*} The whole Act has been repealed in the Presidency of Fort William in Bengal by Ben. Act I. of 1914.
† Ben. Act VII. of 1876.

"or that, in consequence of the preparation of a record-ofrights, or for any other reason, the circumstances of any district or part of a district are so altered."

1906. Act 2

- (2) In same section, after the words "to prepare" the words "or re-write or maintain" shall be inserted.
- 4. In section 15 of the said Act, for the words "and a sepa-Amendment of section 15. rate alphabetical arrangement, for each local division" the following words shall be substituted, namely:—
- "for each local division, and shall be so arranged as the Board may direct.

New sections 19A and 19B.

5. After section 19 of the said Act the following shall be inserted, namely:—

Power of Roard to issue orders as to record of matters required to be entered in Register A or Part I. of Register D. "19A. Notwithstanding anything contained in other sections of this Act, the Board may from time to time, by written order, direct, in respect of all or any districts,—

- (a) that all matters required by this Act to be entered in the general register of revenue-paying lands and Part I. of the intermediate register, respectively, shall be entered in a combined register to be prescribed by the Board, instead of in the aforesaid registers or
- (b) that all matters required by this Act to be entered in the general register of revenue-paying lands, shall be entered in Part I. of the intermediate register instead of in the general register of revenue-paying lands, or
- (c) that all matters required by this Act to be entered in Part I. of the intermediate register shall be entered in the general register of revenue-paying lands instead of in the intermediate register.
- "Explanation.—An order issued under this section may merely direct the entry of matters in some register other than that prescribed for the purpose by other sections of the Act. It may not direct the non-record of matters which are required by the Act to be recorded.
- "19B. All provisions of this Act (other than section 19A) as
 Act to be read subject to to the maintenance of registers, as to the
 orders so issued.

 entry of matters in any particular register
 or in any particular part of any register, and as to other matters
 relating to registers, shall be read subject to any orders issued by
 the Board under section 19A and for the time being in force."
- 6. In section 24 of the said Act, for the words "the alpha-Amendment of section betical arrangement mentioned in section fifteen" the words "the arrangement directed under section fifteen" shall be substituted

Addition to sections 28 and 83.

7. To section 28 and to section 83 of the said Act the following shall be added, namely:—

"The notice required under this section shall be served in the manner prescribed by section 50."

8. To section 30 of the said Act the following shall be added, namely:—

- "(e) Whenever any minor, disqualified proprietor or other beneficiary whose name has been recorded in any register along with that of a guardian or manager lawfully assumes direct charge of his estate, he shall forthwith give notice to the Collector and apply to correction of the register by removal therefrom of the name of such guardian or manager."
- 9. In section 31 of the said Act, after the words "any information required by the Collector "the following words shall be inserted, namely:—
 - "or under clause (e) of the said section to give notice of his having assumed direct charge of an estate."

Amendment of section 53. 10. In section 53 of the said Act.

- (a) after the word "witnesses" the words "and any applicant or his agent" shall be inserted; and
- (b) for the words "in the case of a Civil Court" the words "in respect of witnesses" shall be substituted.

New section 53A

11. After section 53 of the said Act the following shall be inserted, namely:—

- "53A. The evidence of every person examined by the Collec-Record of evidence in interior in any inquiry from which an appeal lies quiries. under this Act shall be recorded in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure."*
- 12. (1) Before the proviso in section 64 of the Land Regis-Amendment of section 64. tration Act, 1876,† the following shall be inserted, namely:—
- "(3) in the case of a fee-simple waste-land lot which is revenue-free and for which no rents are received or receivable, two-and-a-half per centum on one-fifteenth part of the value, such value being taken to be—
 - (a) in the case of a transfer by sale, the purchase-money, and, ·
 - (b) in any other case, the value determined by the Collector."

[.] Act XIV. of 1889.

(2) After the said proviso the following proviso shall be inserted, namely:-

1906. Act 2.

"Provided also that the Board may, by general or special order, remit the payment of fees payable for any transfer."

13. To section 70 of the said Act the Addition to section 70. following shall be added, namely:-

"Notwithstanding anything hereinbefore contained, no application under this section or under section 10 or section 11 of the Bengal Land-revenue Sales Act, 1859,* shall be received unless it is accompanied by a fee of two rupees."

New section 74A.

14. After section 74 of the Land-Registration Act, 1876,† the following shall be inserted, namely:-

Power of Collector to close a separate account otherwise than upon appli-

"74A. Notwithstanding anything contained in the foregoing sections, if the Collector becomes aware, otherwise than after receipt of an application under section 72, that any separate account opened under section 10 or section

11 of the Bengal Land-revenue Sales Act, 1859,* or under section 70 or section 72 of this Act in respect of any estate does not represent existing facts, he may, after service of a notice on the recorded proprietor in the manner prescribed by section 50, and after hearing any objection which may be preferred, close the account."

Amendment of section 77

15. In section 77 of the Land Registration Act, 1876,† before the word "concerned" in the second place in which it occurs, the words "who is" shall be inserted.

Repeals.

- 16. (1) The following portions of the said Act are repealed throughout Bengal, namely:-
- (a) the second paragraph of section 5;
- (b) in section 23, the words "and a note referring to such entry shall be made in the place in the general register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section five: and
- (c) section 25.
- (2) When any order has been issued under any clause of section 19A of the said Act (as amended by this Act), in respect of any district, the following portions of the said Act shall be deemed to be repealed in that district, namely:-

clause (e) of section 7 and clause (e) of section 8.

^{*} Act XI. of 1859.

1906. Act 2.

- (3) When any order has been issued under clause (a) or clause (b) of the said section 19A in respect of any district, the following portions of the said Act shall be deemed to be repealed in that district, namely:—
 - (i) in clause (b) of section 8, the words "and the number which the estate bears in Part I. of the general register of revenue-paying lands for its own district;"
 - (ii) in clause (a) of section 18, the words "the number it bears on the general register of revenue paying lands"; and
 - (iii) in clause (d) of the said section 18, the words "in each part of the general register of revenue-paying lands; and"
 - (4) The following portions of the Bengal Land-revenue Sales (Amendment) Act, 1862,* are hereby repealed, namely:—

(i) in section 3, the words and figures "sections 10 and 11,"

and

(ii) clause 1 of the Schedule.

BEN. ACT NO. III. OF 1906.

The Bengal Disorderly Houses Act, 1906,+

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act to provide for the discontinuance of Brothels and .

Disorderly Houses in certain localities in Bengal.

WHEREAS it is expedient to make provision for the discontinuance of brothels and disorderly houses in certain localitie in Bengal: It is hereby enacted as follows:—

- 1. (1) This Act may be called the Short title and extent. Bengal Disorderly Houses Act, 1906;
- (2) It applies to all municipalities constituted under the Bengal Municipal Act, 1884; ‡ and
- (3) The Lieutenant-Governor may, by notification in the Calcutta Gasette extend it to any specified local area not being a municipality.

Power to direct discontinuance of use of house as a brothel or by disorderly persons.

2. (1) When any Magistrate of the first class receives information—

Ben. Act III. of 1862

[†] The whole Act has been repealed in the Presidency of Fort William in Bengal by Ben. Act I. of 1014 This Act has also been repealed within every Municipality constituted under the Bengal Municipal Act, 1884 in which the Calcutta Suburban Police Act, 1866 is in force—Vide Ben Act III. 1907.

‡ Ben. Act III, of 1884.

(a) that any house in the vicinity of any educational institution, or of any boarding-house, hostels or mess used or occupied by students, is used as a brothel or for the purpose of habitual prostitution, or is used by disorderly persons of any description, or

1906 Act 3

- (b) that any house is used as aforesaid to the annoyance of respectable inhabitants of the vicinity, or
- (c) that any house in the immediate neighbourhood of a cantonment is used as a brothel or for the purpose of habitual prostitution,

he may summon the owner, tenant, manager or occupier of the house to appear before him either in person or by agent; and, if satisfied that the house is used as described in clause (a) clause (b) or clause (c), as the case may be, may by written order, direct such owner, tenant, manager or occupier, within a period to be stated in such order, not less than five days from the date thereof, to discontinue such use:

Provided that action under this sub-section shall be taken only-

- (i) with the sanction or by the order of the District Magistrate; or
- (ii) on the report of the Commissioners of the municipality concerned; or
- (iii) on the complaint of three or more persons resident in the immediate vicinity of the house to which the complaint refers.
- (2) If any person against whom an order has been passed by a Magistrate under sub-section (1) fails to comply with such order within the period stated therein, the Magistrate may impose on him a fine which may extend to twenty-five rupees for every day after the expiration of that period during which the house is so used:

Provided that no fine shall be imposed on an owner if he is able to prove to the satisfaction of the Magistrate that he has taken such action as is within his power to comply with the order.

1906. Act 4.

BEN. ACT NO. IV. OF 1906.

The Sambalpur Civil Courts Act, 1906.*

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

An Act to declare the law relating to Civil Courts in the district of Sambalfur.

WHEREAS it is expedient to declare the law relating to the Courts of Civil Judicature in the district of Sambalpur;

and whereas the previous sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,† to the passing of this Act;

It is hereby enacted as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Sambalpur Civil Cours Act, 1906.

- (2) It extends to the territory declared by the Proclamation of the Governor-General in Council, No 2833, dated the 1st September, 1905, to be subject to and included within the Bengal Division of the Presidency of Fort William.
- (3) It shall come into force on such date as the Local Government may, by notification in the Calcutta Gazette direct.
- 2. Notwithstanding anything contained in section 2 of the Law relating to Civil Bengal and Assam Laws Act, 1905.‡ the Court in the Sambalpur Central Provinces Courts Act, 1904,§ is here-district. by repealed in the district of Sambalpur; and the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887|| (which may hereafter be cited for all purposes, but without prejudice to any other mode of citation as the Bengal, Agra and Assam Civil Courts Act, 1887), is hereby extended to that district.
- 3. All Courts constituted, appointments rules and orders made, jurisdictions and powers conferred and other things done in the said territory under the said Central Provinces Courts Act, 1904, or under any enactment repealed thereby, shall, so far as may be, be deemed to have been respectively constituted, made, conferred and done under the said Bengal, Agra and Assam Civil Courts Act, 1887.
- 4. Any enactment or document referring to the said Central Construction of refer- Provinces Courts Act, 1904, § or to any enactment of 1904. actment repealed thereby, shall, in respect

^{*} The whole Act has been repealed in the Presidency of Fort William in Bengal by Ben. Act I, of 1914.

[†] Stat. 55 & 56 Vict., c. 14. ‡ Act VII. of 1905.

⁶ Act II. of 1904. Act XII. of 1887.

of the said district, be construed to refer to the said Bengal, Agra and Assam Civil Courts Act, 1887,* or the corresponding portion thereof.

1906. Act 4.

5. Nothing in this Act shall affect any proceeding which, at

Pending proceedings the commencement thereof, is pending in any Civil Court in the Sambalpur district, and every such proceeding shall be continued as if this Act had not been passed:

Provided that appeals from decrees and orders passed by Civil Courts and not appealed against before the commencement of this Act shall lie to the Court exercising the jurisdiction under the Bengal, Agra and Assam Civil Courts Act, 1887,* which corresponds, as far as may be, to the jurisdiction of the Court to which such appeals would have lain if this Act had not been passed.

6. In clause (a) of sub-section (1) of section 36 of the Bengal,
Amendment of section 36 Agra and Assam Civil Courts Act, 1887,*
(1) (a) of Act XII. of 1887. after the words "Chutia Nagpur" the word "Sambalpur" shall be inserted.

^{*} Act XII. of 1887.

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The Bengal Senancy (Amendment) Act, 1907.

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BEN. ACT NO. I, OF 1907.

The Bengal Tenancy (Amendment) Act, 1907.*

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Received the assent of His Honour on 6th April, 1907, and assented to by His Excellency the Viceroy on 11th May, 1907. Published in the Calcutta Gazette of May 22, 1907.

An Act to amend and supplement the Bengal Tenancy Act, 1885

WHEREAS it is expedient to amend the Bengal Tenancy Act, 1885,† in the manner hereinafter appearing;

And whereas the previous sanction of the Governor-General has been obtained under section 5 of the Indian Councils Act, 1892,‡ to the passing of this Act;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Bengal Tenancy (Amendment) Act, 1907.

Repeal of sections 14 2. Sections 14 and 45 of the Benand 45 of Act VIII. of gal Tenancy Act, 1885,† are hereby repealed.

3. (1) In sub-section (3) of section 1 of the said Act, after the words "the town of Calcutta" the words ("any area constituted a Municipality under the provisions of the Bengal Municipal Act, 1884, § or part thereof

^{*} This Act has been repealed in Bihar and Orissa by B. & O. Act II. of 1913. † Act VIII. of 1885. \$ 55 & 56 Vict, c. 14.

⁶ Ben. Act III. of 1884.

and specified in a notification in this behalf by the Local Govern-Act 1. ment") shall be inserted.

- (2) To the said sub-section, the following Explanation shall be added, namely:—
 - "Explanation.—The words the town of Calcutta' mean, subject to the exclusion or inclusion of any local area by notification under section 637 of the Calcutta Municipal Act, 1899,* the area described in Schedule I. to that Act.

Amendment of clauses (5) 4. In section 3 of the Bengal Tenancy and (10) of section 3. Act, 1885,†—

- (1) in clause (5), after the word and figures "Chapter XII." he word and figures "Chapter XIV." shall be inserted.
 - (2) for clause (10) the following shall be substituted, namely:-
- "(10) 'village' means the area defined, surveyed and recorded as a distinct and separate village in—
 - (a) the general land-revenue survey which has been made of the Province of Bengal, or
 - (b) any survey made by the Government which may be adopted by notification in the Calcutta Gazette as defining villages for the purposes of this clause in any specified area;

and, where a survey has not been made by, or under the authority of, the Government, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a village."

Amendment of sections 12 and 13 (2).

5. (1) To sub-section (2) of section 12 of the said Act, the following shall be added namely:—

- "together with the costs necessary for the transmission of the landlord's fee to the landlord."
- (2) In sub-section (3) of the said section and in sub-section (2) of section 13—
 - (t) after the words "landlord's fee" the words "the costs necessary for the transmission of the same "shall be inserted;
 - (ii) for the word "paid" the word "transmitted" shall be substituted, and
 - (iii) after the word "landlord" the words "named in the notice" shall be inserted.

^{*} Ben. Act III. of 1899,

6. (1) In sub-section (1) of section 13 of the said Act, after 1907. the words "foregoing section," and in sec-Amendment of sections tion 15 after the word and figures "section Act 1. 13 (1) and 15. 12," the words "together with the costs necessary for its transmission to the landlord " shall be inserted.

- (2) In the said section 15-
 - (i) for the word "paid" the word "transmitted" shall be substituted, and
 - (ii) after the word "landlord" the words "named in the notice" shall be inserted.

7. In section 16 of the said Act, for the words "and fees" the words "fees and Amendment of section 16. costs" shall be substituted.

New Chapter IV 4, sections 18A to 18C

8. After section 18 of the said Act the following shall be inserted, namely:-

"CHAPTER IVA.

"Provisions as to transfers of tenures and holdings AND LANDLORD'S FEES.

"18A. Nothing contained in any instrument of transfer to which the landlord is not a party shall be Saving as to statements in instruments of transfer evidence against the landlord of the perwhere landlord no party. manence, amount or fixity of rent, area, transferability or any incident of any tenure or holding referred . to in such instrument.

"18B. The acceptance by a landlord of any landlord's fee payable under Chapter III. or Chapter IV. Saving as to acceptance in respect of any tenure or holding shall of landlord's fees. not operate-

- (a) as an admission as to the permanence, amount or fixity of rent, area, transferability or any incident of such tenure or holding, or
- (b) as an express consent under section 88 to the division of such tenure or holding, or to the distribution of the rent payable in respect thereof.

"18C. All landlord's tees paid under Chapter III. or Chapter Forfeiture of unclaimed IV. which are held in deposit on or after the commencement of the Bengal Tenancy landlord's fees. (Amendment) Act, 1907,* may, unless accepted or claimed by the landlord within three years from such commencement or from the date of the service of the notice prescribed in section 12 section 13 or section 15 (as the case may be), whichever is later, be forfeited to the Government."

Ben Act I. of 1907.

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9. (1) Section 19 of the Bengal Tenancy Amendment of section 19. Act, 1885,* shall be re-numbered section 10, sub-section (1).

- (2) In the said sub-section (1), after the words "this Act," in both places where they occur, the words, brackets and figures "or the Bengal Tenancy (Amendment) Act, 1907,"† shall be inserted.
- (3) After the said sub-section (1), the following shall be inserted, namely:—
 - "(2) The exclusion from the operation of this Act, by a notification under sub-section (3) of section 1, of any area constituted a Municipality under the provisions of the Bengal Municipal Act, 1884 t or of any part of such area, or the inclusion of any area in the town of Calcutta by notification under section 637 of the Calcutta Municipal Act, 1899 § shall not affect any right, obligation or liability previously acquired, incurred or accrued in reference to such area."

10. In section 22 of the Bengal Amendment of section 22. Tenancy Act, 1885.*

- (a) in sub-section (1), for the words "the occupancy-right shall cease to exist" the words "such person shall have no right to hold the land as a tenant, but shall hold it as a proprietor or permanent tenure-holder (as the case may be;)" shall be substituted;
- (b) in sub-section (2) for the words from "it shall cease to exist" to the end of the sub-section, the following shall be substituted, namely:-
 - "he shall be entitled to hold the land subject to the payment to his co-proprietors or joint permanent tenure-holders of the shares of the rent which may be from time to time payable to them; and if such transferee sublets the land to a third person, such third person shall be deemed to be a tenure holder or a raiyat, as the case may be, in respect of the land.

Illustration.

A, a co-sharer landlord, purchases the occupancy holding of a raiyat X. A is entitled himself to hold the land on payment to his co-sharers of the shares of the rent payable to them in respect of the holding. A sublets the land to Y, who takes it for the purpose of establishing tenants on it; Y becomes a tenure-holder in respect of the land. Or A sublets it to Z, who takes it for the purpose of cultivating it himself; Z becomes a raiyat in respect of the land."

> (c) in sub-section (3), after the word "acquire" the words "by purchase or otherwise" shall be inserted.

^{*} Act VIII. of 1885.

[‡] Ben. Act III. of 1884. † Ben. Act I. of 1907. § Ben. Act. III. of 1899.

Amendment of section 40

11. In section 40 of the said Act—

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- (i) in sub-section (1), after the words "partly in another"

 the words "or partly in any of those ways and partly in cash" shall be inserted;
- (ii) in sub-section (2), for the words "an officer making a settlement of rents" the following shall be substituted, namely:—
 - "a Revenue-officer appointed by the Local Government under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record-of-rights;"
- (iii) in clause (b) of sub-section (4), the word "and" shall be omitted, and
- (iv) to the said sub-section (4) the following shall be added, namely:—
 - "and (d) improvements effected by the landlord or by the occupancy-raivat in respect of the raiyat's holding, and to the rules laid down in section 33 regarding enhancement of rent on the ground of a landlord's improvement."

New section 40A.

12. After section 40 of the said Act the following shall be inserted, namely:—

"40A. (1) Where the rent of a holding has been commuted

Period for which commuted rents are to remain
unaltered.

ground of a landlord's improvement or of a
subsequent alteration of the area of the holding, be enhanced for fifteen years; nor shall it be reduced for
fifteen years, save on the ground of alteration in the area of the
holding, or on the ground specified in clause (a) of sub-section (1)
of section 38.

(2) The said period of fifteen years shall be counted from the date on which the order takes effect under sub-section (5) of section 40."

Addition to section 52

13. To section 52 of the said Act, the following shall be added, namely:—

"(6) When in a suit under this section the landlord or tenant proves that, at the time the measurement on which the claim is based was made, there existed in respect of the estate or permanent tenure or part thereof in which the tenure or holding is situate, a practice of settlement being made after measurement of the land assessed with rent, it may be presumed that the area of the tenure or holding specified in any patta or kabuliyat, or (where there is an entry of area in a counterfoil receipt corresponding to the entry in the rent-roll) in any rent-roll relating to it has been entered in such patta, kabuliyat or rent-roll after measurement."

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Amendment of section 58.

14. For sub-section (3) of section 58 of the said Act, the following shall be substituted, namely:—

- (3) If a landlord or his agent witout reasonable cause fails to deliver to the tenant a receipt or statement, or to prepare and retain a counterfoil or copy of a receipt or statement, as required by either of the said sections, such landlord or agent, as the case may be, shall be liable to a fine not exceeding fifty rupees, to be imposed, after summary inquiry, by the Collector.
- (4) The Collector may hold a summary inquiry under sub-section (3) either on information received from a Revenue-officer within one year, or upon complaint of the party aggrieved made within three months, from the date of failure, or upon the report of a Civil Court.
- (5) Where, in any case instituted under sub-section (3), the Collector discharges any landlord or agent, and is satisfied that the complaint of the tenant on which the proceedings were instituted is false or vexatious, the Collector may, in his discretion, by his order of discharge, direct the tenant to pay to such landlord or agent such compensation, not exceeding fifty rupees, as the Collector thinks fit.
- (6) An appeal shall lie to the Commissioner of the Division against any order of the Collector imposing a fine under sub-section (3) or awarding compensation under sub-section (5): and the orders passed by the Commissioner on such appeal shall, subject to any order which may be passed on revision by the Board of Revenue, be final.
- (7) Any fine imposed or compensation awarded under this section may be recovered in the manner provided by any law for the time being in force for the recovery of a public demand.
- (8) For the purpose of an inquiry under this section, the Collector shall have power to summon, and enforce the attendance of, witnesses, and compel the production of documents in the same manner as is provided in the case of a Court under the Code of Civil Procedure*

Amendment of section 67.

15. In section 67 of the Bengal Tenancy
Act, 1885†—

- (a) after the word "twelve" the words "and-a-half" shall be inserted, and
- (b) for the words "to the institution of the suit" the words
 "to the date of payment or of the institution of the
 suit, whichever date is earlier," shall be substituted.

Amendment of section 69.

16. (1) To sub-section (3) of section 69 of the said Act, the following shall be added, namely:—

· "but an order made by the Collector under this sub- 1907. section shall not prevent the execution of any order passed by the Court for the distraint of the tenant's Act 1. crops."

- (2) To the said section the following shall be added, namely:—
 - "(4) Every officer appointed by the Collector under subsection (1) to appraise or divide the produce shall, for the purposes of the Indian Penal Code,* be deemed to be a public servant."
- 17. In section 75 of the Bengal Tenancy Act, 1885† after the word "rent" the words "or interest" shall Amendment of section 75. be inserted.
- 18. (1) In section 88 of the said Act, for the words "with his consent in writing" the words "with his Amendment of section 88. express consent in writing, or with that of his agent duly authorized in that behalf" shall be substituted.
- (2) To the same section the following proviso shall be added, namely:—
 - "Provided that, if there is proved to have been made in any landlord's rent-roll any entry showing that any tenure or holding has been divided, or that the rent payable in respect thereof has been distributed, such landlord may be presumed to have given his express consent in writing to such division or distribution."

19. In sub-section (2) of section 101 Amendment of sub-secof the said Act.tion (2) of section 101.

- (1) for clause (a) the following clause shall be substituted, namely:—
 - "(a) Where-
 - (i) the landlord or tenants, or
 - (ii) a proportion of not less than one-half of the total number of landlords, or *
 - (iii) a landlord, or a proportion of the landlords, whose interest, or the aggregate of whose interests, respectively, in the lands of the local area, estate or tenure or part thereof is not less than one-half of the total shares of all the landlords therein, or
 - (iv) a proportion of not less than one-fourth of the total number of tenants.

applies, or apply, for such an order, depositing, or giving security for, such amount for the payment of expenses as the Local Government directs;" and

Act XLV. of 1860.

1270 BENGAL TENANCY (AMENDMENT) ACT.

1907. Act 1. (2) to clause (c) the following shall be added, namely:

"or a Manager appointed by the District Judge under section 95;"

Amendment of section 20. In section 102 of the said 102.

- (1) after clause (d) the following clause shall be inserted, namely:—
 - "(dd) the name of each proprietor in the local area or estate;"
- (2) after clause (g) the following clause shall be inserted, and shall be deemed to have been so inserted from the commencement of the Bengal Tenancy (Amendment) Act, 1898,* namely:—
 - "(gg) the rights and obligations of each tenant and landlord in respect of—
 - (i) the use by tenants of water for agricultural purposes, whether obtained from a river, ihil, tank or well or any other source of supply, and
 - (ii) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land;"
 - (3) After clause (h) the following shall be inserted, namely:-
 - "(i) any right of way or other easement attaching to the land for which a record-of-rights is being prepared;"

and the existing clause (1) shall be re-lettered clause (j).

- 21. After section 102 of the Bengal Tenancy Act, 1885,† so amended the following shall be inserted, namely:—
- "102A. The Local Government may, for the purpose of Power to order survey settling or averting disputes existing or and preparation of record-likely to arise between landlords, tenants, of-rights as to water. proprietors, or persons belonging to any of these classes regarding the use or passage of water.

make an order directing that a survey be made, and a recordof-rights be prepared, by a Revenue-officer, in order to ascertain and record the rights and obligations of each tenant and landlord in any local area, estate or tenure or part thereof, in respect of—

(a) the use by tenants of water for agricultural purposes, whether obtained from a river, jhil, tank or well or any other source of supply; and

(b) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land."

1907. Act 1.

. Amendment of section 103B. 22. For section 103B of the said Act the following shall be substituted, namely:—

- Presumption as to final of-rights prepared and published under publication and correctness this Chapter, or a duly certified copy thereof record-of-rights of or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published, unless such publication is expressly denied; and a certificate signed by the Revenue-officer, or by the Collector of any district in which the local area, estate or tenure or part thereof to which the record-of-rights relates, is wholly or partly situate, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication
- (2) The Local Government may, by notification, declare, with regard to any specified area, that a record-of-rights has been finally published for every village included in such area, and such notification shall be conclusive evidence of such publication.
- (3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved by evidence to be incorrect."
- 23. In the heading to part II. of Chapter X. of the said Act,

 Amendment of heading for the words "decision of disputes" the to Part II. of Chapter X. words "disposal of objections" shall be substituted.
- 24. (1) In clause (b) of section 104, and in sub-section (2)

 Amendment of sections of section 105 of the said Act, for the word, letter and brackets "clause (i)" the word, letter and brackets "clause (j)" shall be substituted.
- (2) To the said section 104, the following proviso shall be added, namely:—
 - "Provided that the Revenue-officer shall not settle the rents of tenants of every class in an estate or tenure belonging to the Government, if it does not appear to the Local Government to be expedient that he should do so."
- 25. In clause (g) of sub-section (3) of section 104H of the

 Amendment of sub-section (3), clause (g), of section 104H.

 said Act, for the words "have not been recorded or have" the words "or any right of way or other easement attaching to the land which is the subject of the tenancy have not, or has not, been recorded or have, or has," shall be substituted.

1272 BENGAL TENANCY (AMENDMENT) ACT.

1907. Act 1.

New section 105A.

Decision of questions arising during the course of settlement of rents under this Part.

26. After section 105 of the said Act the following shall be inserted, namely:—

"105A. Where, in any proceedings for the settlement of rents under this Part, any of the following issues arise:—

- (a) whether the land is, or is not, liable to the payment of rent;
- (b) whether the land, although entered in the record-ofrights as being held rent-free, is liable to the payment of rent;
- (c) whether the relation of landlord and tenant exists;
- (d) whether the land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy;
- (e) whether the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging;
- (f) whether the special conditions and incidents of the tenancy or any right-of-way or other easement attaching to the land have not, or has not, been recorded or have, or has, been wrongly recorded,

the Revenue-officer shall try and decide such issue and settle the rent under section 105 accordingly:

Provided that the Revenue-officer shall not try any issue under this section, which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, and has been tried and decided, or is already being tried, by a Revenue-officer in a suit instituted before him under section 106."

Addition of proviso to section 106.

27. To section 106 of the said Act * the following proviso shall be added, namely:—

"Provided also that in any suit under this section the Revenue-officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, in proceedings for the settlement of rents under this Part, where such issue has been tried and decided, or is already being tried, by a Revenue-officer under section 105A."

Amendment of section 107. 28. In section 107 of the said Act-

(a) in sub-section (1) for the words and figures "In all proceedings for the settlement of rents under this Part, and in all proceedings under section 106" the words, figures and letter "In all proceedings under

section 105, section 105A and section 106" shall be 1907. substituted, and

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- (b) for sub-section (2) the following shall be substituted, namely:-
 - "(2) A note of all rents settled under section 105 and of all decisions of issues or disputes under section 105A or section 106, and of all rents commuted under section 40 by a Revenue-officer appointed by the designation of Settlement Offier or Assistant Settlement Officer, shall be made in the record-of-rights finally published under subsection (2) of section 103A, and such note shall be considered as part of the record."
- 29. In section 108 of the said Act, after the words and figures "section 105" the word, figures and letter Amendment of section " section 105A" shall be inserted. 108.

New section 108 \

30. After section 108 of the said Act the following shall be inserted, namely:-

" 108A. Any Revenue-officer specially empowered by the Local Government in this behalf, may, on appli-Correction by Revenuecation or of his own motion, within twelve officer of mistakes in recordmonths from the date of the certificate of of-rights the final publication of the record of rights under sub-section (2) of section 103A, correct any entry in such record-of rights which he is satisfied has been made owing to a bond fide mistake:

Provided that no such correction shall be made if an appeal affecting such entry is pending under section 109A, or until reasonable notice has been given to the parties concerned to appear and be heard in the matter."

- 31. In section 109 of the said Act, for the words and figures "of suit instituted under section 105, section Amendment of section 106, section 107 or section 108," the words, figures and brackets "suit instituted or proceedings taken under sections 105 to 108 (both inclusive)" shall be substituted.
- 32. In sub-section (2) of section 109A of the said Act, after the figures "108" the letter "A" shall be Amendment of section 109A. inserted.
- 33. In Part IV. of Chapter X. of the said Act so amended, immediately before section 110, the follow-New sections 10 qB, 10qC ing shall be inserted, namely:and 100D.
- "109B. (1) In framing a record-of-rights, and in deciding disputes, under this Chapter, the Revenue-Power of Revenue-officer officer shall give effect to any lawful agreeto give effect to agreement ment or compromise made or entered into or compromise. by any landlord and his tenant,

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but he shall not give effect to any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act.

- (2) Where any agreement or compromise has been made for the purpose of settling a dispute as to the rent payable; the Revenue-officer shall, in order to ascertain whether the effect of such agreement or compromise would be to enhance the rent in a manner, or to an extent, not allowed by section 29 in the case of a contract, record evidence as to the rent which was legally payable immediately before the period in respect of which the dispute arose.
- (3) Where the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, the Revenue officer shall not give effect to such agreement or compromise, unless and until he is satisfied by evidence that the statements made by the parties thereto are correct.

Illustration.

A, a proprietor agrees that B, his tenant, shall be recorded as an occupancy-raiyat; this affects the rights of the tenants of B. The Revenue-officer must, under sub-section (3), inquire whether B is a tenure-holder or a raiyat, as defined in section 5. If he finds on the evidence that B is a raiyat, he may give effect to the agreement, but shall not do so if he finds that B is a tenure-holder.

- "109C. (1) Notwithstanding anything contained in section Power of Revenue officer 109B, if, in any case, while the record is to settle rents on agreement. being prepared, the landlord and tenant agree as to the rent which shall be recorded as payable for the tenure or holding, a Revenue-officer specially empowered in this behalf by the Local Government may, if he is satisfied that the rent agreed upon is fair and equitable, but not otherwise, settle such rent as a fair and equitable rent, although the terms of the agreement are such that, if they were embodied in a contract, they could not be enforced under this Act; and the provisions of section 113 shall apply to a rent so settled.
- (2) A landlord or tenant may appeal to the Special Judge appointed under section 100A on the ground that the rent settled by the Revenue-officer, under sub-section (1), as a fair and equitable rent, was not agreed to by such landlord or tenant, and on no other ground.
- (3) The Board of Revenue may, on application made, or of its own motion in proceedings undertaken, within one year from the date of the order, under sub-section (1), settling a rent as a fair and equitable rent, direct the revision of the rent so settled:

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

"109D. A note of all rents settled and of all decisions of dis-Note of decisions on record. putes, on revision or appeal under section 108, section 109A, or sub-section (2) or subsection (3) of section 109C, shall be made in the record-of-rights finally published under sub-section (2) of section 103A, and such note shall be considered as part of the record."

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34. In section III of the said Act, after the word "entertain" the words and figures "any application made under section 158, or" shall be inserted.

New section 111B.

35. After section IIIA of the said Act, the following shall be inserted, namely:—

"IIIB. (1) Where a record-of-rights has been prepared and Stay of suits in which finally published in respect of the land in an certain issues arise. area in which a settlement of land-revenue is not being made, or is not about to be made, no application or suit affecting such land or any tenant thereof shall, within three months from the date of the certificate of final publication of such record-of-rights, be made or instituted in any Civil Court for the decision of any of the following issues, namely:—

- (a) whether the land is or is not liable to the payment of rent;
- (b) whether the relation of landlord and tenant exists;
- (c) whether the land is part of a particular estate or tenancy;
- (d) whether there is any special condition or incident of the tenancy, or whether any right-of-way or other easement attaches to the land.
- (2) If, before the final publication of the record-of-rights in such area, a suit involving the deci ion of any of the issues mentioned in sub-section (1) has been instituted in a Civil Court, the Revenue-officer shall not entertain any suit under section 106 involving the decision of the same issue.
- (3) Where, in the course of settling fair rents under section 105, the Revenue-officer finds that, by reason of a suit involving the decision of any of the issues mentioned in sub-section (1) having been instituted in a Civil Court before the final publiction of the record-of-rights, or before a Revenue-officer under section 106, he is unable to settle a fair rent until such issue is decided, the Revenue-officer shall stay the proceedings, for the settlement of a fair rent, pending a final decision on the issue.

And, after the issue has been finally decided, he shall settle a fair rent, as if the record-of-rights had been framed in accordance with such decision.

(4) Where the making of an application or institution of a suit has been delayed owing to the operation of sub-section (1), the period of three months therein mentioned shall be excluded in computing the period of limitation prescribed for such suit or application.

1907 Act 1. 36. (1) In sub-section (1) of section 112 of the said Act for Amendment of section the words "invest a Revenue officer acting under this Chapter" the following shall be substituted, namely:—

"or that any landlord is demanding rents which have been illegally enhanced above those entered as payable in a record of rights prepared under this Chapter, invest a Revenue-officer."

- (2) After sub-section (2) of the said section the following shall be inserted, namely:—
 - "(2a) A settlement of rents under this section shall be made in the manner provided by sections 104 to 104] (both inclusive)."
- (3) To sub-section (3) of the said section the following shall be added, namely:—

"and the revision, by direction of the Board of Revenue under sub-section (2) of section 104G, of a record-of-rights, or any portion of a record-of-rights, prepared under this section, shall be subject to a like confirmation by the Governor-General in Council."

Amendment of section 114

37. In section 114 of the said Act-

- (1) in sub-section (1)—
 - (a) the words "by the Government" are hereby repealed, and
 - (b) for the words "from time to time in the maintenance," the following shall be substituted, namely:—
 - "at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair or restoration:"
 - (c) after the word "proportions" the words and brackets "and in such instalments (if any)," shall be inserted.
- (2) after sub-section (1), the following shall be inserted, namely:—
 - "(2) The estimated amount of the expenses likely to be incurred for the maintenance, repair or restoration of boundary-marks for a period not exceeding fifteen years, or such part of such amount as the Local Government may direct, may be recovered in advance in the same manner as if such expenses had been already incurred;"
- (3) the present sub-section (2) shall be re-numbered sub-section (3), and
- (4) after sub-section (3), so re-numbered, and before the Explanation the following shall be inserted, namely:—

"(4) The cost of preparing copies of survey maps and records-of-rights under this Chapter for distribution to landlords and tenants shall be deemed to be part of 'the expenses incurred in carrying out the provisions of this Chapter."

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New section, 15A.

38 After section 115 of the said Act, the following shall be inserted, namely:—

"115A. In the demarcation of village boundaries for the pur-Demarcation of village pose of making a survey and preparing a boundaries. pose of making a survey and preparing a record-of-rights under this Chapter, a Revenue-officer shall, so far as is possible, and subject to the provisions of the Bengal Survey Act, 1875,* preserve, as the unit of survey and record, the area contained within the exterior boundaries of the village maps of the revenue survey, if any;

and, where village maps prepared at a previous revenue survey exist, he shall not, without the sanction of the Board of Revenue adopt any other area as such unit."

- 39. To the heading to Chapter XI. of the Bengal Tenancy
 Addition to heading to Act, 1885 † the following words shall be
 Chapter XI.

 Prefixed, namely:—
 - "Non-accrual of occupancy and non-occupancy rights, and"
- 40. In section 116 of the said-Act, after the words "shall Amendment of section apply to" the following shall be inserted, namely:—
- "lands acquired under the Land Acquisition Act, 1894,‡ for the Government or for any Local Authority or for a Railway Company, or lands belonging to the Government within a Cantonment, while such lands remain the property of the Government, or of any Local Authority or Railway Company, or to"
- 41. After sub-section (2) of section 120 of the Bengal Tenancy

 Amendment of section Act, 1885,† the following shall be inserted,

 namely:—
- "(2a) Notwithstanding anything contained in any agreement or compromise, or in any decree which is proved to his satisfaction to have been obtained by collusion or fraud, a Revenue-officer shall not record any land as a proprietor's private land, unless it is proved to be such by satisfactory evidence of the nature described in sub-section (1) or sub-section (2)."

New sections 147A and 42. After section 147 of the said Act the following shall be inserted, namely:—

^{*} Ben. Act V. of 1875.

- 1907. Act 1.
- "147A (1) The provisions of section 375 of the Code of Civil

 Compromise of suits between landlord and tenant.

 The provisions of section 375 of the Code of Civil

 Procedure* shall not apply to any suit between landlord and tenant as such.
- (2) If any suit between landlord and tenant as such is adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfies the plaintiff in respect to the whole or any part of the matter of the suit, the Court shall pass a decree in accordance with such agreement, compromise or satisfaction, so far as it relates to the suit:

Provided that no decree shall be passed in accordance with any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act.

- (3) Where any agreement or compromise has been made for the purpose of settling a dispute as to the rent payable, the Court shall, in order to ascertain whether the effect of such agreement or compromise would be to enhance the rent in a manner, or to an extent, not allowed by section 29 in the case of a contract, record evidence as to the rent which was legally payable immediately before the period in respect of which the dispute arose.
- (4) Where the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, the Court shall not pass a decree in accordance with such agreement or compromise, unless and until it is satisfied by evidence that the statements made by the parties thereto are correct.

Illustration -A, a proprietor, agrees that B, his tenant, shall be recorded as an occupancy-raiyat; this affects the rights of the tenants of B. The Court must, under subsection A), inquire whether B is a tenure-holder or a raiyat as defined in section S. If the Court finds on the evidence that B is a raiyat, it may pass a decree in accordance with the agreement, but shall not do so if it finds that B is a tenure-holder.

- (5) A decree passed in accordance with any lawful agreement, compromise or satisfaction shall be final so far as it relates to so much of the subject-matter of the suit as is dealt with by such agreement, compromise or satisfaction.
- "147B. In all areas for which a record-of rights has been preRegard to be had by Civil pared and finally published under sub-secCourts to entries in recordtion (2) of section 103A, a Civil Court shall,
 of rights.
 in all suits between landlord and tenant as
 such, have regard to the entries in such record-of-rights relating
 to the subject-matter in dispute which may be produced before it,
 unless such entries have been proved by evidence to be incorrect;
 and when a Civil Court passes a decree at variance with such
 entries, it shall record its reasons for so doing."
- 43. (1) After clause (b) of section 148 of the Bengal Tenancy

 Amendment of section Act, 1885,† the following shall be inserted,

 namely:—

^{*} Act XIV. of 1882, but now see Act V. of 1908.

(b1) where the suit is for the rent of land situated within an area for which a record-of-rights has been prepared and finally published, the plaint shall further contain a list of the survey plots comprised in the tenancy and a statement of the rental of the tenancy according to the record-of-rights, unless the Court is satisfied, for reasons to be recorded in writing, that the plaint ff was prevented by any sufficient cause from furnishing such list or statement:

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- Provided that, in all cases in which the Court admits a plaint which does not contain such statement, the Court shall and in any other case in which it sees fit the Court, may, require the Collector to supply, without payment or fee, a verified or certified copy of, or extract from, the record-of-rights relating to the tenancy;
- "(b2) where an alteration has been made in the area of the tanancy, since the record-of-rights was prepared and finally published, the plaint shall further contain a statement of the rental of the original tenancy according to the record-of-rights, together with a statement showing how the amount of rent claimed in the suit has been computed."
- (2) After clause (f) of the same section, the following shall be inserted, namely:—
 - "(ff) when any account-books, rent-rolls, collection-papers, measurement-papers or maps have been produced by the landlord before any Court, and have been admitted in evidence in a suit pending therein, copies of, or extracts from, such documents, certified by a duly authorized officer of such Court to be true copies or extracts, may, with the permission of the Court, be substituted on the record for the originals, which may then be returned to the landlord;
 - and thereafter copies and extracts, so certified, may be admitted in evidence in any other suit instituted in the same or any other Court, unless the Court before which they are produced sees fit to require the production of the originals."

New section 148A.

44. After section 148 of the said Act the following shall be inserted, namely:—

"148A. Where a co-sharer landlord who has instituted a suit
Suits for arrears of rent to recover the rent due to all the co-sharer
by co-sharer landlords landlords in respect of an entire tenure or
holding, and has made all the remaining co-sharers parties defendant to the suit, is unable to ascertain what rent is due for the whole
tenure or holding, or whether the rent due to the other co-sharer
landlords has been paid or not, owing to the refusal or neglect of

the tenant, or of the co-sharer landlords defendant to the suit, to furnish him with correct information on these points, or on either Act 1. of them,

such plaintiff co-sharer landlord shall be entitled to proceed with the suit for his share only of the rent, and a decree obtained by him in a suit so framed shall, as regards the remedies for enforcing the same, be as effectual as a decree obtained by a sole landlord or an entire body of landlords in a suit brought for the rent due to all the co-sharer."

45. The words "except for special reasons to be recorded in writing," in sections 149 and 150 of the Amendment of sections said Act, are hereby repealed. 149 and 150.

Addition of Explanation to section 153.

46. To section 153 of the said Act the following Explanation shall be added, namely :--

"Explanation - A question as to the regularity of the proceedings in publishing or conducting a sale in execution of a decree for arrears of rent is not a questio relating to title to land or to some interest in land as between parties having conflicting claims thereto "

47. After section 153 of the said Act New section 153A. the following shall be inserted, namely:-

"153A. Every application for an order under section 108 of the Deposit on application to Code of Civil Procedure* to set aside a decree passed ex-parte or for a review of set aside ex-parte decree judgment, under section 623 of the said Code, in a suit between a landlord and tenant as such, shall contain a statement of the injury sustained by the applicant by reason of the decree or judgment;

and no such application shall be admitted-

- (a) unless the applicant has, at or before the time when the application is admitted, deposited in the Court to which the application is presented the amount, if any, which he admits to be due from him to the decree-holder, or such amount as the Court may, for reasons to be recorded by it in writing, direct; or
- (b) unless the Court, after considering the statement of injury, is satisfied, for reasons to be recorded by it in writing, that no such deposit is necessary."
- 48. In sub-section (1) of section 158 of the Bengal Tenancy Amendment of sub-sec. Act, 1885, before the words "The Court tion (1) of section 158. having jurisdiction" the words and figures "Subject to the provisions of section III." shall be inserted.

^{*} Act XIV. of 1882, but now see Act V. of 1908.

New Chapter XIIIA and ew section 158A.

49. After section 158 of the said Act the following shall be inserted, namely:-

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"CHAPTER XIIIA.

"SUMMARY PROCEDURE FOR THE RECOVERY OF RENTS UNDER THE PUBLIC DEMANDS RECOVERY ACT, 1895.*

Recovery of arrears by he certificate procedure in certain areas.

"158A. (1) Any landlord whose land is situate in an area for which a record-of-rights has been prepared and finally published, and in which such record is maintained,

may apply to the Local Government, through the Collector of he district in which his land is situate, for the application of the procedure prescribed by the Public Demands Recovery Act, 1895,* the recovery of the arrears of rent which he alleges are, or may accrue, due to him for lands in such area.

- (2) The Local Government may reject any such application, or may allow it subject to such terms and conditions as it may see fit to impose, and may at any time add to or vary any terms or conditions so imposed, or withdraw its allowance of the application, without, in any of these cases, assigning any reason for its action.
- (3) When any such application has been allowed, the landlord may make a requisition in writing, in the Form prescribed, to such Revenue-officer as the Local Government may appoint, for the purpose of this section, to perform the functions of a Certificate Officer under the Public Demands recovery Act, 1895,* for the recovery of any arrears of rent which he alleges are due to him from any tenant.
- (4) Every such requisition shall be signed and verified by the landlord making it, in accordance with the provisions of sections 51 and 52 of the Code of Civil Proceduret as to the verification of plaints; and there shall be payable in respect of every such requisition a court-fee of the same amount as is payable under the Courtfees Act for the time being in force in respect of a plaint for the recovery of a sum of money equal to that stated in such requisition.
- (5) On receipt of such requisition the Revenue-officer may, in accordance with such rules as the Local Government may prescribe in this behalf, issue certificates in the Form prescribed therefor for the recovery of the arrears alleged to be due,

and any such certificate shall, as regards the remedies for enforcing the same and so far only, have the force and effect of a decree of a Civil Court passed in a suit for the recovery of rent, and the provisions of Chapter XIV. shall, so far as may be practicable, be applicable to all proceedings for the execution of such certificate:

But now see Ben. Act III. of 1913. ‡ Act VII. of 1870

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- (a) no certificate shall be issued for the recovery of arrears of rent of a tenancy regarding which a suit has been instituted in a Civil Court for the alteration of the rent payable by the tenant or the determination of his status as a tenant, in respect of the period during which it is alleged in the requisition made under subsection (3) the arrears of rent sought to be recovered have accrued; and,
- (b) if after the issue of a certificate it is found that such a suit has been instituted in a Civil Court before the issue of the certificate, such certificate shall be cancelled.
- * (6) The following provisions of the Public Demands Recovery Act, 1895,* shall, so far as they are applicable, apply to the proceedings for the execution of all certificates for the recovery of arrears of rent issued under sub-section (5), namely:—
- 'the proviso to sub-section (1) of section 7, and sections 10 to 17 (both inclusive), and 22 to 33 (both inclusive).'
- (7) No landlord shall, during the pendency of any proceedings under this section, institute a suit in a Civil Court for the recovery of any arrears of rent in respect of which he has made a requisition under sub-section (3);
- and, subject to the provisions of section 15 of the Public Demands Recovery Act, 1895,* no tenant shall, after the issue of any certificate against him under sub-section (3), institute a suit in, or apply to, a Civil Court for the alteration of the rent payable by him, or the determination of his status as a tenant, in respect of the period during which the arrears of rent for which such certificate was issued have accrued.
- (8) The word 'landlord' in this section includes an entire body, of landlords, and also one or more co-sharer landlords who collects or collect his or their share or shares of the rent separately, and, where the Revenue-officer issues a certificate on the requisition of one or more such co-sharer landlords, he shall at the same time issue to each of the remaining co-sharer landlords a copy of such certificate."
 - 50. In Chapter XIV. of 'the Bengal Tenancy Act, 1885,†
 immediately before section 159, the following shall be inserted, namely:—
- "158B. (1) Where a tenure or holding is sold in execution

 Passing of tenure or hold. of a decree for arrears of rent due in
 ing sold in execution of respect thereof, or of a decree for damages
 decree.

 under section 186A, the tenure or holding
 shall, subject to the provisions of section 22, pass to the purchaser,

^{*} But now see Ben. Act III. of 1913.

provided that the decree in execution of which it has been sold has 1907. been obtained by-

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- (a) a sole landlord; or
- (b) the entire body of landlords; or
- (c) one or more co-sharer landlords, who has, or have, sued for the rent due to all the co-sharers in respect of the entire tenure or holding and made all the remaining co-sharers parties defendant to the suit.
- (2) When one or more co-sharer landlords, having obtained a decrée in a suit framed under sub-section (1) or under section 148A applies, or apply, for the execution of the decree by the sale of the tenure or holding, the Court shall, before proceeding to sell the tenure or holding, give notice of the application for execution to the other co-sharers."

51. To section 161 of the said Act the Addition of clause (c) to section 161. following shall be added, namely:-

- "(c) the terms 'arrears' and 'arrear of rent' shall be deemed to include interest decreed under section 67 or damages awarded in lieu of interest under sub-section (1) of section 68."
- 52. In sub-section (1) of section 168 of the said Act, for the words "decrees for rent" the words "a Amendment of section decree for an arrear of rent" shall be 168. substituted.
- **53.** (1) In clause (c) of sub-section (1) of section 169 of the said Act, after the words "the date of" the words "the confirmation of" shall be Amendment of sub-section (1) of section 160 and addition of proviso. inserted.
- (2) To the said sub-section the following proviso shall added, namely:---
- " Provided that, where a tenure or holding has been sold in execution of a decree obtained by one or more co-sharer landlords in a suit framed under section 148A or sub-section (1) of section 158B,—
 - (i) payment of the amount due under such decree shall notwithstanding anything contained in clause (b), be made to the decree-holder and to the other co-sharer landlords in proportion to the amount found to be due to each, and,
 - (ii) if there remains a balance, payment of any rent which may have been fallen due in respect of the tenure or holding between the institution of the suit and the date of the confirmation of the sale shall, notwithstanding anything contained in clause (c), but subject to the determination, in the manner and with the effect mentioned in sub-section (2), of any dispute as

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to their respective rights to receive such rent, be made to the said decree-holder and the other cosharer landlords in proportion to their respective shares in the tenure or holding."

- 54. In section 170 of the said Act, after the words and brackets "(both inclusive)" the word, figures
 and letter "and 310A" shall be inserted.
- 55. To the proviso to sub-section (2) of section 174 of the Amendment of section 174. said Act, the following shall be added, namely:—
- "and if he applies under this section, he shall not be entitled to make an application under section 311 of the Code of Civil Procedure."*
- 56. (1) In proviso (iii) to section 178 of the Bengal Tenancy

 Amendment of sub-section 178.

 Act, 1885,† after the words "cultivation of" the words "horticultural or" shall be inserted.
- (2) To the same proviso the following Explanation shall be added, namely:—
- "Explanation.—The expression 'horticultural land,' as used in proviso (iii), means garden land in the occupation of a proprietor or permanent tenure-holder, which is used bona fide for the cultivation of flowers or vegetables, or both, grown for the personal use of such proprietor or permanent tenure-holder and his family, and not for profit or sale."

New heading and new 57. After section 186 of the said Act, section 186A. the following shall be inserted, namely:—

" Damages for denial of landlord's title.

- "186A. (1) When, in any suit between a landlord and tenant Damages for denial of as such, the tenant renounces his character as tenant of the landlord by setting up without reasonable or probable cause title in a third person or himself, the Court may pass a decree in favour of the landlord for such amount of damages, not exceeding ten times the amount of the annual rent payable by the tenant, as it may consider to be just.
- (2) The amount of damages decreed under sub-section (1), together with any interest accruing due thereon, shall, subject to the landlord's charge for rent, be a first charge on the tenure or holding of the tenant; and the landlord may execute such decree for damages and interest, either as a decree for a sum of money, or, subject to the provisions of section 152B, in any of the modes in which a decree for rent may be executed."

New section 188A.

58. After section 188 of the said Act, the following shall be inserted, namely:—

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- "188A. Notwithstanding anything contained in this Act,
 Procedure in suits by every suit between landlord and tenant as
 joint landlords. such instituted by—
 - (a) a sole landlord,
 - (b) the entire body of landlords, or,
 - (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and to every decree passed in a suit framed under sub-section (1) or sub-section (2) of section 158B, the provisions of Chapter XIV. shall, so far as may be practicable, be applicable."

New clauses (2), (3) and (4) in section 189.

59. For sub-section (2) of section 189 of the said Act, the following shall be substituted, namely:—

- "(2) to prescribe the forms to be used, and the mode of service of notices issued, under this Act, where no form or mode is prescribed by this or any other Act;
- (3) to prescribe the manner in which landlord's fees shall be transmitted to the landlord; and
- (4) to prescribe the authority by whom the fees deposited under sections 12, 13, 15, 17 and 18, clause (a), may be declared to be forfeited, and the mode in which such fees, when so forfeited, shall be dealt with."
- 60. In section 192 of the said Act, before the words "fix a Amendment of section 192. fair and equitable rent" the words "or of his own motion shall" be inserted.

Amendment of Schedule III.

- 61. In Shedule III. to the said Act,-
- (1) after Article 1 the following shall be inserted, namely:-

the ground of the expiration of the term of his lease.	"(a) To eject a non-occupancy raiyat on the ground of the expiration of the term of his lease.	Six months	The expiration of the term."
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(2) in Article 2—

- (a) after the words "arrear of rent" the following shall be inserted, namely:—
 - "in a suit brought by-
 - (i) a sole landlord,
 - (ii) the entire body of landlords, or
 - (iii) one or more co-sharer landlords,"

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- (b) for the entry in the third column opposite clause (b) the the following entry shall be substituted, namely:—
 - "the last day of the agricultural year in which the arrear fell due."
- (3) in Article 3, for the words "an occupancy-rayat" the words "a raiyat or an under-raiyat" shall be substituted.
- (4) in Article 6, for the words "under this Act, or any Act repealed by this Act," the words "in a suit between landlord and tenant to whom the provisions of this Act are applicable," shall be substituted.

BEN. ACT NO. II. OF 1907.

The Calcutta Port (Amendment) Act, 1907.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Received the assent of His Honour on the 9th September, 1907.

Assented to by His Excellency the Viceroy and GovernorGeneral on the 25th idem.

An Act to amend the Calcutta Port Act, 1890.

WHEREAS it is expedient to amend the Calcutta Port Act, 1890,* in the manner hereinafter appearing;

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Calcutta Port (Amendment) Act, 1907.
- 2. In section 19 of the Calcutta Port Act, 1890,* after the
 Amendment of section 19 word "borrow" the words "within such
 of Ben. Act III. of 1890. dates as may be approved by the GovernorGeneral in Council," shall be inserted.
 - Amendment of section 20.

 Solution 30. For sub-section (1) of section 20 of the said Act, the following shall be substituted, namely:—
- Form and transferability of this Act shall be in such form as the of debentures.

 Commissioners, with the previous consent of the Governor-General in Council, shall from time to time determine.
- (2) The holder of any debenture in any form duly authorized under this section may obtain in exchange therefor, upon such terms as the Commissioners shall from time to time determine, a debenture in any other form so authorized.

(3) Every debenture issued by the Commissioners shall be 1907. transferable in such manner as shall be therein expressed."

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And the existing sub-section (2) shall be re-numbered "subsection (4)."

- 4. In section 22 of the said Act after the words "previous sanction of" the words "and within such Amendment of section 22. dates as may be approved by " shall be inserted.
- 5. In sub-section (1) of section 24 of the said Act, for the Amendment of section 24 words "a period not exceeding thirty years from the date of the contracting of the same" the following words shall be substituted, namely:-
 - "within such period, not exceeding sixty years, from the date of the contracting of the same as the Governor-General in Council may in each case direct."

6. After section 24 of the said Act, New section 24A. the following shall be inserted, namely:—

"24A. The sinking fund established for the liquidation of any Annual examination of loan shall be subject to annual examination by the Accountant-General, Bengal, Sinking Fund. who shall ascertain whether the cash and the current value of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon.

The Commissioners shall pay forthwith into the sinking fund any amount which the Accountant-General may certify to be deficient, unless the Governor-General in Council specially sanctions a gradual re-adjustment."

7. In sub-section (1) of section 91 of Amendment of section gr the said Act, for the word "Third" the word "Second" shall be substituted.

8. In section 108 of the said Act, as Amendment of section amended by the Calcutta Port (Amendment 108. No. 1) Act, 1895,*—

- (1) for the words from "If, on the preparation" to the words "requisite in every case" the words "The Commissioners may from time to time," shall be substituted;
- (2) for the words "as will, when added to the said income of the year, suffice as nearly as may be for the payment of the said sums in full" the words "as the Commissioners may think fit and expedient," shall be substituted.

1907. |Acts 2,

& 3.

Repeal of section 110.

9. Section 110 of the Calcutta Port Act, 1890,* is hereby repealed.

10. The Second Schedule to the said Act is hereby repealed, and the existing "Third Schedule" shall be re-numbered "Second Schedule."

BEN. ACT NO. III. OF 1907.

The Calcutta and Suburban Police (Amendment) Act, 1907.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Received the assent of His Honour on the 9th September, 1907.

Assented to ty His Excellency the Viceroy and Governor-General on the 25th idem.

An Act to amend the Calcutta Police Act, 1866, and the Calcutta Suburban Police Act, 1866.

WHEREAS it is expedient to amend the Calcutta Police Act, 1866,† and the Calcutta Suburban Police Act, 1866,‡ in the manner hereinafter appearing;

It is hereby enacted as follows:---

Short title.

1. This Act may be called the Calcutta and Suburban Police (Amendment) Act, 1907.

Amendment of section 43 of Ben. Act IV. of 1866 and section 17 of Ben. Act II. of 1866.

Power to order discontinuance of use of house, room or place as brothel, disorderly house or place of assignation in certain ases.

- 2. For section 43 of the Calcutta Police Act, 1866,† and for section 17 of the Calcutta Suburban Police Act, :866,‡ the following shall be substituted, namely:—
- "(1) When the Commissioner of Police receives information that any house, room or place
- (a) is used as a brothel or disorderly house, or for the purpose of carrying on the business of a common prostitute, in the vicinity of any educational institution or of any boarding-house, hostel or mess used or occupied by students, or of any place of public worship or recreation, or
- (b) is used as, or for the purpose, aforesaid to the annoyance of respectable inhabitants of the vicinity, or
- (c) is used as, or for the purpose, aforesaid on any main thoroughfare which has been notified in this behalf by

^{*} Ben. Act III. of 1800

CAL. SUBURBAN POLICE (AMENDMENT) ACT. 1289

the Lieutenant-Governor on the recommendation of the Municipal Commissioners, or

Act 3.

(d) is used as a common place of assignation,

he may cause a notice to be served on the owner (if in occupation) lessor, manager or occupier of the house, room or place to appear before him either in person or by agent on a date to be fixed in such notice, and to show cause why, on the grounds to be stated in the notice, an order should not be passed for the discontinuance of such use of the house, room or place.

(2) If on the date fixed, or on any subsequent date to which the hearing may be adjourned, the Commissioner of Police is satisfied, after making such inquiry as he deems fit, that the house, room or place, is used as described in clause (a), clause (b), clause (c) or clause (d) of sub-section (1), as the case may be,

he may by written order direct such owner, lessor, manager or occupier, within a period to be stated in such order, not less than ten days from the date thereof, to discontinue such use.

- (3) For the purposes of an inquiry under sub-section (2), the Commissioner of Police may depute a Deputy Commissioner of Police to make a local investigation, and may take into consideration his report thereon.
- (4) The decision of the Commissioner of Police that a house, room or place is used in any manner, or for any purpose, described in clause (a), (b), (c) or (d) of sub-section (r) shall be final, and the legality or propriety thereof shall not be questioned in any trial or judicial proceeding in any Court.
- "A. If any person against whom an order has been passed by Penalty for reach of or. the Commissioner of Police under sub-section der. (2) of the preceding section, uses the house, room or place in a manner which contravenes such order after the period stated therein, he shall be punished, on summary conviction before a Magistrate, with a fine which may extend to twenty-five rupees for every day after the expiration of the said period during which the breach continues, and shall, on second conviction, be liable to simple imprisonment which may extend to three months in addition to, or in lieu of, any fine which is imposed under this section.
- "B. Notwithstanding anything contained in any other law for Power of owner or lessor to the time being in force, the owner or lessor determine lease or tenancy. of any house, room or place, against the lessee, tenant or occupier of which an order has been passed directing the discontinuance of the use thereof as a brothel or disorderly house or for the purposes of carrying on the business of a common prostitute, or as a common place of assignation, shall be entitled forthwith to determine such lease, tenancy or occupation.

1290 CAL. SUBURBAN POLICE (AMENDMENI) ACT.

1907. Act 3. "C. (1) The Commissioner of Police may, upon complaint Power to order discontinuate of music in certain written order direct the discontinuance in any place of music or singing, the beating of drums or tomtoms, and the blowing or sounding of horns or other noisy instruments, if he is satisfied that the same is a nuisance and ought to be summarily stopped either on account of the dangerous illness of, or because it seriously interferes with the reasonable occupation of, any person resident or lawfully engaged in the neighbourhood:

Provided that in any case where the discontinuance of music, or other sounds as aforesaid, is so ordered, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved, and it satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and the Commissioner of Police shall give effect to any such alteration or reversal:

Provided also that nothing in this section shall apply to music or other sounds as aforesaid in any place of public worship, or on the occasion of any religious observance or ceremony.

- (2) Any person who contravenes an order of the Commissioner of Police passed under sub-section (1) shall be punished with a fine which may extend to one hundred rupees."
- 3. The Bengal Disorderly Houses Act, 1906,* is hereby Repeal of Ben. Act III repealed within every Municipality constituted under the Bengal Municipal Act, 1884,† in which the Calcutta Suburban Police Act, 1866,‡ is in force.

Amendment of sections 46 and 80 of Ben. Act IV of 1866.

4. In section 46 and in section 80 of the Calcutta Police Act, 1866,§ for the word "Inspector," the word "Sub-Inspector" shall be substituted.

Amendment of section 51 of Ben. Act IV. of 1866.

- 5. In section 51 of the said Act—
- (a) the words "not exceeding one-fourth" shall be omitted, and
- (b) for the words "an informer" the words "any person who has contributed in any way to the conviction," shall be substituted.
- 6. [Repealed by Ben, Act III. of 1910.]

^{*} Ben. Act III. of 1906.

[†] Ben. Act III. of 1884.

[‡] Ben. Act II. of 1866.

[§] Ben. Act IV, of 1866,

CAL. SUBURBAN POLICE (AMENDMENI) ACI. 1291

Amendment of clause (13) of section 66 of Ben. Act IV. of 1866, and of clause (13) of section 40 of Ben Act II. cf 1866.

7. In clause (13) of section 66 of the Calcutta Police Act, 1866,* and in clause (13) of section 40 of the Calcutta Suburban Police Act, 1866† for the words "or fence" in both places in which they occur, the words "tree, fence, post, pole or other erection" shall be substituted.

1907. Act 3.

8. & 9. [Repealed by Ben. Act 111. of 1910.]

BENGAL ACT NO. I. OF 1908.

The Calcutta Port (Amendment) Act, 1908.

[PUBLISHED IN THE "CALCUTTA GAZETTE" OF 1HE 22ND APRIL 1908.]

An Act /urther to amend the (alcutta Port Act, 1890.]

WHEREAS it is expedient further to amend the Calcutta Port Act, 1890, in the manner hereinafter appearing,

It is hereby enacted as follows:—

- 1. This Act may be called the Calcutta Port (Amendment) Act, 1**9**08.
- 2. After section 20 of the Calcutta Port Act, 1890, the following shall be inserted, namely:—
- '20A. All coupons attached to debentures issued under the authority of this Act shall bear the signature Signature of coupons atof the Vice-Chairman, and such signature tached to debentures may be engraved, lithographed, or impressed by any mechanical process."

Ben. Act IV. of 1866.

[†] Ben. Act II. of 1866.

1908. Act 2.

BENGAL ACT NO. II. OF 1908

The Sambalpur (Evidence) Act, 1908.

[PUBLISHED IN THE "CALCUTTA GAZETTE" OF THE 29TH APRIL 1908.]

An Act to repeal the Central Provinces Laws Act, 1879,* in the district of Sambalpur.

WHEREAS it is expedient to repeal the Central Provinces Laws Act, 1879.* and to revive the sections of the Code of Civil Procedure † which were repealed thereby, in the district of Sambalpur;

And whereas the previous sanction of the Governor-General has been obtained under section 5 of the Indian Councils Act, 1892,‡ to the passing of this Act,

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Sambalpur (Evidence) Act, 1908.

Repeal of Act II of 1879, and revival of portions of the Code of Civil Procedure, in the district of Sambalpur. 2. The Central Provinces Laws Act, 1879,* is hereby repealed, and sections 182, 184, 185, 189, 190, and 191 of the Code of Civil Procedure † are revived, in the district of Sambalpur.

‡ Stat. 55 & 56 Vict., c. 14.

^{*} Act II. of 1879.

[†] Act XIV. of 1882

BENGAL ACT NO. III. OF 1908.

1908. Act 3.

The Puri Lodging-house (Amendment) Act, 1908.

[PUBLISHED IN THE "CALCUTTA GAZETTE" OF THE 6TH MAY 1908.]

An Act further to amend the Puri Lodging-House Act, 1871.*

WHEREAS it is expedient further to amend the Puri Lodging-house Act, 1871; *

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Puri Lodging-house (Amendment) Act, 1908.

Partial repeal of title and preamble to Bengal Act IV. of 1871.

- 2. The words, "and other towns in Orissa in the title and preamble to the Puri Lodging-house Act, 1871,* are hereby repealed.
- 3. (1) In the definition of "lodger" in section 1 of the said Amendment of section 1. Act,* for the words "an inmate," the words "a pilgrim" shall be substituted.
- (2) To the said definition, the following shall be added, namely:—

"and shall include a person who pays or delivers to his Panda, or to any other person on behalf of his Panda, money in a lump sum, or property, or both, in consideration for the provision of accommodation and bodily comforts by such Panda or other person in any place other than the place of residence of such Panda."

Amendment of section 4 and repeal of Schedules A and B,

- 4. (1) In section 4 of the said Act,*—
- (a) for the words, "in the form set forth in Schedule A of this Act," and
- (b) for the words, "in the form set forth in Schedule B of this Act," the following words shall respectively be substituted, namely:—

"in such form as the Lieutenant-Governor may, by notification prescribe in this behalf."

(2) Schedules A and B to the said Act* are hereby repealed.

Amendment of section 7. 5. In section 7 of the said Act,*-

- (a) for the word "two," the word "five" shall be substituted; and,
- (b) after the word, "each," the words, "day or" shall be inserted.

1294 PURI LODGING-HOUSE (AMENDMENT) ACT.

1908. Act 3.

- 6. In section 8 of the said Act,* for the words, "a fee, calculated at the rate of eight annas for each person upon the entire number of lodgers mentioned in such license, shall be payable," the following shall be substituted, namely:—
 - "a fee shall be payable, calculated up in the entire number of lodgers which is mentioned in the certificate, at such rate, not exceeding one rupee for each lodger, as the Lieutenant-Governor may, by notification, direct."
 - 7. In section 9 of the said Act.* for the words, "for twelve Amendment of section 9. calendar months from the day of its date," the words, "till the thirty-first day of December of the year in which it is granted," shall be substituted.
 - 8. (1) The word "reasonable," where it first occurs in section Amendment of section 10. 10 of the said Act,* is hereby repealed.
- (2) To the said section, the following shall be added, namely:—
 "Provided, further, that no entry, inspection, or examination shall be made between the hours of o PM, and 6 A.M. except by—
 - (a) the Magistrate himself, or
 - (b) the Health Officer, if he is also the Civil Medical Officer of the district, or
 - (c) an officer, not below the rank of Sub-Deputy Magistrate or Sub-Deputy Collector, who is authorized in writing in this behalf by the Magistrate."

New section IIA

- 9. After section 11 of the said Act,* the following shall be inserted, namely:—
- "11A. Every person who is authorized in writing under section

 Persons authorized to inspect deemed public servants
 To to enter into, inspect, and examine any lodging-house shall be deemed to be a public servant within the meaning of the Indian Penal Code †"
 - New section 12A.

 1C. After section 12 of the Puri Lodging-House Act, 1871,* the following shall be inserted, namely:—
- "12A. Every keeper of a lodging-house shall maintain a regis-Keeper of lodging-house ter, and shall record therein the name of the person whom he leaves actually in charge of the lodging-house during each period when such keeper is absent therefrom.
 - Amendment of section 13. In section 13 of the said Act,* for the word "inmates," the word "lodgers" shall be substituted.

Amendment of section 14

12. For section 14 of the said Act,* the following shall be substituted, namely:—

1908. Act 3.

- "14. (1) Every keeper of a lodging-house shall expose, and Keeper of lodging-house keep exposed, on a conspicuous portion of to expose notice the front of such house, a notice showing the number of the license and the number of lodgers which he is licensed to accommodate.
- (2) Such notice shall be plainly and legibly inscribed in the Bengali, Hindi, and Uriya characters."
- 13. (1) The portion of section 17 of the said Act from the words, "Every keeper of a lodging-house," to the words, "suspension of his license," shall be re numbered section 17, sub-section (1); and the remainder shall be numbered sub-section (2).
- (2) In the said sub-section (1), for the word "inmates," in both places in which it occurs, the word "lodgers" shall be substituted, and for the words, "an inmate of," the words, "a lodger in," shall be substituted.
- (3) The words, "and of the number of lodgers mentioned in such license," in the said sub-section (1), are hereby repealed.
- (4) To the said sub-section (1), the following shall be added, namely:—
- "shall be liable to be punished by a fine not exceeding five rupees for each lodger so found."
 - (5) In the said sub-section (2)—
 - (a) for the words, "or who shall refuse or neglect," the words, "Every keeper of a lodging-house who refuses or neglects," shall be substituted; and
 - (b) after the words, "thereunto required or," the words and figures, "who fails, without reasonable cause, to maintain the register prescribed by section 12A, or to make any entry therein which is prescribed by that section, or," shall be inserted.

New section 21A

14. After section 21 of the said Act,*
the following shall be inserted, namely:—

Power to grant tempo. that sufficient accommodation cannot be rary licenses in cases of provided in the licensed lodging-houses for urgency. all the pilgrims visiting the town, he may grant temporary licenses on such terms as he may think fit, and may charge for any such license such fee as he thinks fit, not exceeding the fee payable for a license under section 8."

1296 PURI LODGING-HOUSE (AMENDMENI) ACT.

1908. Act 3.

Amendment of section 36.

15. In section 36 of the said Act,* for the words "one month," the words "two months" shall be substituted.

Repeals.

16. The enactments specified in the Schedule are hereby repealed to the extent mentioned in the third column thereof.

THE SCHEDULE.

(See section 16.)

ENACTMENTS REPEALED.

Number and year.	Short title.	Extent of repeal.
I	2	3
Bengal Act II. of 1879.	The Puri Lodging-house (Extension) Act. 1879	In section 3 the following words and figures, namely—
		"in section 7, after the word 'each' the words 'day or' shall be inserted";
		"and Schedule B;"
		"in lieu of the words the rate of eight annas," in section ?, shall be subs- tituted the words 'a rate not exceeding one rupee;"" and
		"in lieu of the last five words in section 14, shall be substituted the words in the character of the vernacular of the dis- trict,""
Bengal Act I. of 1884	The Puri Lodging-house (Extension) Act, 1884.	So much as has not been repealed.

^{*} Ben. Act IV. of 1871.

BEN. ACT NO. IV. OF 1908.

1908.

The Bengal Repealing Act, 1908.

[Published in the "Calcutta Gazette" of the 141H October 1908.]

An Act to repeal the Howrah and Suburban Municipal Police Act, 1884.*

WHEREAS it is expedient to repeal the Howrah and Suburban Municipal Police Act, 1884;* It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Repealing Act, 1908.

Repeal of Bengil ot IV. of 1884.

2. The Howrah and Suburban Municipal Police Act, 1884,* is hereby repealed.

BEN. ACT NO. V. OF 1908.

The Bengal Local Self-Government (Amendment) Act, 1908.

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SECTIONS.

- s. Short title.
- Repeal of portions of Bengal Act III of 885.
- 3. Addition to section 5.
- 4. Amendment of sections 7, 11, and 15
- 5. New section 10
 - ic. Power to appoint members of District or Local Board if prescrib d proportion not duly elec-
- 6- Amendment of proviso to section 13.
- 7. Amendment of section 17.
- 8. Amendment of section 18.
- 9. New section 18A-
 - 18A. Power of Lieutenant-Governor to remove members after proceedings in Criminal Court
- 10. New sections 19 and 19A-
 - , 19. Filling of casual vacancies.

 19A Term of office of member of
 District Board or Local
 Board.

- SECTIONS.
- 11 Amendment of section 22.
- 12 New section 23A
 - a3A. Appointment of Chairman or Vice-Chairman of District Board on failure to elect
- 13. Amendment of section 25.
- 14. New sections 26 and 26A-
 - 26. Vice-Chairman of Local Board.
 - 26A. Leave of absence to Chairman or Vice-Chairman of District or Local Board.
- 15. Amendment of section 27.
- 16. New sections 29 and 29A-
 - 29. Casual vacancies in office of Chairman or of Vice-Chairman of District or Local Board.
 - .9A Term of office of Chairman and Vice-Chairnan,
- 17. Amendment of section 32.
- 18. Amendment of section 33.

B. C .- 163.

^{*} Ben. Act IV. of 1884.

1298 BEN. LOCAL SELF. GOVT. (AMENDMENT) ACT.

SECTIONS.

10. New section 35-

35 Pensions and gratuities to be paid out of the District Fund.

20. New section 35A-35A. Provident Fund.

21. Amendment of section 36.

22. New section 41A-

4 A. Chairman of Union Committee.

23. Amendment of section 44.

24. Addition to section 48.

25. Addition to section 50. 26. Amendment of section 52.

27. Amendment of section 53.

28. New section 53A --

53A Temporary or accidental deviati as from provisions relating to crediting or application of District Road Fund.

29. Amendment of section 56.

30. Amendment of section 55.

31. Amendment of section 59.

32. Amendment of section 60.

33. New section 61-

61. Pounds.

34. New section 63-63. Other schools.

35. New section 64A-

maintenance, and 64A Provision, management of students' hostels.

36. Amendment of section 65.

37. New sections 65A and 65B-

65A. Site of students' hostels.

65B. Constitution and functions of Education Committees.

38. Addition to section 67.

39. Amendment of section 73.

40. New section 78A-

78A. Power to turn, divert, discontinue, or close road.

41. Amendment of section 82

42 Addition to section 86.

43. New heading and new sections 86A to 86M-

D (I) -Tolls on Bridges.

86A. Power of District Board to establish toll-bars and levy tolls.

86B. Lease of toll-bar

86C. Procedure where two District Boards have contributed towards cost of bridge, etc.

86D. Exemptions.

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86F. Table of tolls to be hung up.

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86K. Police-officers to assist.

SECTIONS.

86L. Penalty for taking unauthorized tolls.

86M. District Board to publish expenses, etc., of toll-bars.

44. New section 58 A-

88A. Power to contribute towards cost of municipal water sup ply.

45. New section 91-

91. Constitution and functions of Sanitation Committees, and appointment of Sanitary In spector

46. Amerdment of section 99.

47 New section 9, A-

99 . Irrigation works for relief of famine or scarcity.

48. Amerdment of section 100.

49 Amendment of section 104.

50 Amendment of sections 105 to 107.

51. Amendment of sections 108 and 109

52 Amendment of section 110.

53. New section mi-111. Pounds.

54. New section 114-

114 Registration of births and deaths

55 New sections 115 to 119-

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1:6. Powers of Union Committee as vanitation, conservancy, and drainage.

117. Cleansing of villages.

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118A Water supply.

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118C. Method of meeting cost of works of canitation, drainage, and conservancy of villages.

118D. Appears against orders, awards, and assessments.

110 Power of District Board to subordinate Union Committee to Local Board.

56. Amendment of section 130.

57. Amendment of section 131.

58. Amendment of section 132.

59. New section 133-

135. Disputes between two or more Union Committees when to be referred to District Board or Local Board.

60. Amendment of section 138.

61. Amendment of section 130.

62. Amendment of section 142.

63. Addition to section 144.

64. Amendment of Schedule II.

BEN. ACT NO. V. OF 1908.

1903.

The Bengal Local Self-Government (Amendment) Act, 1908.*

Act 5.

[Published in the "Calculta Gazette" of the 28th October 1908.]

An Act to amend the Bengal Local Self-Government Act of 1885.†

WHEREAS it is expedient to amend the Bengal Local Self-Government Act of 1885† in manner hereinafter appearing;

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Bengal Local Self-Government (Amendment) Act, 1908.
- 2. The following portions of the Bengal Local Self-Govern-Repeal of portions of ment Act of 1885† are hereby repealed, Bengal Act III. of 1885. namely:—

in section 1, the words, "or of the districts of Singhbhum, the Sonthal Parganas, or the Chittagong Hill-tracts;"

in the proviso to section 6, the words, "and in any other sub-division to which the provisions of the next succeeding Chapter shall have been extended;

section 16;

section 24;

the last paragraph of section 25;

section 34;

section 72;

† Ben. Act III. of 1885.

the proviso to section 73, and,

in section 103, the words, "A Local Board shall exercise powers of supervision and control over all Union Committees within the area under its authority, and."

Addition to section 5.

3. To section 5 of the said Act, the following shall be added, namely:—

"and 'sanitation' includes water-supply."

- 4. (1) In section 7 of the said Act, after the figures "22,"

 Amendment of sections 7, the words, figures, and letter, "section 23A or section 29," shall be inserted.
- (2) For the words, "Lieutenant-Governor," where they occur in the sixth paragraph of section 7, in section 11, and in the first

[.] Originally this Act was in force in those territories which were within the province of Bengal at the time when the Act was passed i.e., in Western Bengal, It has been extended to Eastern Bengal by Ben. Act l. of 1914.

1300 BEN. LOCAL SELF-GOVT. (AMENDMENT) ACT.

1908. paragraph of section 15 of the said Act, the word "Commissioner"

Act 5.

New section 10.

- 5. For section 10 of the said Act, the following shall be substituted, namely:—
- Power to appoint mem. tenant-Governor under this Act, the presbers of District or Local Board if prescribed proportion not duly elected. The prescribed proportion of the prescribed by rules made by the Lieutenant-Governor under this Act, the prescribed proportion of the prescribed proportion of the prescribed proportion of the prescribed by rules made by the Lieutenant-Governor under this Act, the prescribed proportion of the prescribed proporti
- 6. In clause (2) of the proviso to section 13 of the said Act, for Amendment of proviso the words, "the area under the authority of such Local Board," the words, "the subdivision for which such Local Board has been established," shall be substituted.
- 7. In section 17 of the said Act, for the words "Lieutenant-Amendment of section Governor," and for the word "Commissioner," in both places in which they respectively occur, the word "Commissioner" and the words "Disactict Board," respectively, shall be substituted.

Amendment of section 8. (1) Section 18 of the said Act shall be renumbered section 18, sub-section (1).

- (2) In the said sub-section (1)—
 - (i) for the words "Lieutenant-Governor," wherever they occur, the word "Commissioner," shall be substituted:
 - (ii) for the words "or Local Board," the words "Local Board or Union Committee" shall be substituted;
 - (iii) in clause (a), the words from "or is convicted" to the words "unfits him to be a member," are hereby repealed.
- (3) To the said section, the following shall be added, namely:—
- "(2) Any member who is removed under sub-section (1) may appeal to the Lieutenant-Governor, whose decision shall be final."

9. After section 18 of the said Act, the following shall be inserted namely:—

Power of Lieutenant-Governor may remove any member of a Power of Lieutenant-Governor to remove members after proceedings in Criminal Court.

District Board, Local Board, or Union Committee who is convicted of any such offence, or is subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor formed after due inquiry unfits him to be a member."

New sections 19 and 10. For section 19 of the said Act, the following shall be substituted, namely:—

1908. Act 5.

"19. (1) When the place of an elected member of a District Filling of casual vacan. Board or Local Board becomes vacant by his resignation, removal, or death, a new member shall be elected, in accordance with rules made by the Lieutenant-Governor under this Act, to fill the place:

Provided that, if, within the time prescribed by such rules, no new member is duly elected, the Commissioner may appoint a new member to fill the place.

- (2) When the place of an appointed member of a District Board or Local Board becomes vacant as aforesaid, the Commissioner may appoint a new member to fill the place.
- (3) No act of any District Board or Local Board, or of its officers, shall be deemed to be invalid by reason only of the fact that the number of members of the Board, at the time of the performance of the act, was less than the prescribed number.
- "19A. (1) A member of a District Board or Local Board who
 Term of office of member of District Board or Local shall, subject to sections 17, 18, and 18A of this Act, and unless the Lieutenant-Governor otherwise directs, continue to be a member of the Board while he continues to hold the office to which such designation refers.
- (2) A member of a District Board or Local Board who has been elected or appointed under section 19 shall, subject as aforesaid, hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.
- (3) In cases not provided for by sub-section (1) or sub-section (2) of this section, the term of office of a member of a District Board or Local Board shall be fixed by the Lieutenant-Governor by rules, which may provide for the retirement of members by rotation.
- (4) An outgoing member of a District Board or Local Board may, if otherwise qualified, be re-elected or reappointed."
- 11. In section 22 of the said Act, after the word "elected," the

 Amendment of section words "either by name or by virtue of his

 office" shall be inserted.

New section 23A.

12. After section 23 of the said Act, the following shall be inserted, namely:—

"23A. If any District Board fails to elect a Chairman or ViceAppointment of Chairman within the time prescribed by rules made by the Lieutenant-Governor under this Act, the Lieutenant-Governor may appoint a Chairman or Vice-Chairman, as the case may be."

13. In section 25 of the said Act,-

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- (a) after the word "elected," the words, "either by name or by virtue of his office," shall be inserted; and
- (b) for the words "Lieutenant-Governor," in the first, second, fourth, and fifth places in which they occur, the word "Commissioner" shall be substituted.

New sections 26 and 26A.

14. For section 26 of the said Act, the following shall be substituted, namely:—

- "26. (1) Every Local Board shall, from time to time, within a Vice-Chairman of Local period prescribed by rules made by the Board. Lieutenant-Governor under this Act, elect one of its members to be Vice-Chairman.
- (2) If any Local Board fails to elect a Vice-Chairman within such period, the Commissioner may appoint a Vice-Chairman.
- "26A, A District Board or Local Board may grant leave of Leave of absence to Chairman or Vice-Chairman of Special Board. In any one year.
- Amendment of section tenant-Governor; and, on such resignation being accepted," the following shall be substituted, namely:—

"in the case of a Chairman of a District Board, to the Lieutenant-Governor, and, in the case of a Chairman of a Local Board, to the Commissioner; and, on such resignation being accepted by the Lieutenant-Governor or Commissioner, as the case may be."

New sections 29 and 29A. 16. For section 29 of the said Act, the following shall be substituted, namely:—

- Casual vacancies in office of Chairman of O'Ice Chairman of District or Local Board.

 made by the Lieutenant-Governor under this Act, a new Chairman be elected by the members of the Board from among their own number, subject to his approval.
- (2) If a Chairman of a Local Board or a Vice-Chairman of a District Board or Local Board dies, resigns, is removed, or avails himself of leave granted under section 26A, the Board shall, at a special meeting held for the purpose within a period prescribed by rules made by the Lieutenant-Governor under this Act, elect from among its members a new Chairman or Vice-Chairman, as the case may be.
- (3) If any District Board or Local Board fails to elect a new Chairman or Vice-Chairman within the prescribed period, the Lieutenant-Governor (in the case of a District Board) or the Com-

missioner (in the case of a Local Board) may appoint a new Chairman or Vice-Chairman, as the case may be.

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- "29A. (1) The term of office of an elected Chairman or Vice-Term of office of Chair— Chairman of a District Board or Local man and Vice Chairman. Board, or of an appointed Vice-Chairman of a District Board or Chairman or Vice-Chairman of a Local Board, shall, subject to sections 27 and 28 of this Act, be the residue of his term of office as a member of the Board
- (2) The term of office of an appointed Chairman of a District Board shall, subject as aforesaid, be one year from the date of his appointment; but he may be reappointed on the expiration of that term.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2) the term of office of a Chairman or Vice-Chairman appointed or elected to fill a casual vacancy consequent upon the grant of leave under section 26A shall expire upon the return from leave of the person whose office he was appointed or elected to fill.
- (4) Every appointed Chairman of a District Board shall be deemed to be a member of the Board during his term of office."

Amendment of section 32

17. In section 32 of the said Act—

- (a) for the words, "every District Board, and every Local Board with the sanction of the District Board," the following shall be substituted, namely:—
 - "Any District Board, with the sanction of the Commissioner and subject to the control of the Lieutenant-Governor, and any Local Board, with the sanction of the District Board, and of the Commissioner and subject to the control of the Lieutenant-Governor;"
- (b) for the words, "leave, suspension, and removal," in clause (g), the words, "leave, leave allowance, and punishment (including suspension and removal)." shall be substituted;
- (c) after the words "and may," the words, "with the like sanction and subject to the like control, shall be inserted; and
- (d) for the concluding paragraph, the following shall be substituted, namely:—
 - "All rules made under this section, and all orders repealing or altering any such rules, shall be published in such manner as the Li-utenant-Governor may direct; and so far as they are consistent with this Act and with any rules made by the Lieutenant-Governor

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hereunder, shall, upon such publication have the force of law."

18. In section 33 of the said Act, after the words and figures, "under section 30," the following shall be inserted, namely:—

"or by an Education Committee referred to in section 65B."

New section 35. 19. For section 35 of the said Act, the following shall be substituted, namely:—

"35. A District Board may, from time to time, with the sanction Pensions and gratuities of the Commissioner and subject to the control of the District Fund.

paid out of the District Fund to its establishment, and for the grant and payment therefrom of extraordinary pensions and gratuities to the families of deceased employés, and may, with the like sanction, and subject to the like control, repeal, add to, or alter such rules."

New section 35A.

20. After section 35 of the said Act, the following shall be inserted, namely:—

"35A. A District Board may, from time to time, with the sanction of the Commissioner and subject to the control of the Lieutenant-Governor, make rules—

- (a) for the creation and management of a Provident Fund for its several establishments;
- (b) for compelling members of its establishments to make contributions to such Fund;
- (c) for supplementing such contributions by grants from the District Fund; and
- (d) for the payment of moneys out of such Provident Fund;

and may, with the like sanction and subject to the like control repeal, add to, or alter such rules."

21. In the proviso to section 36 of the said Act, for the words,

Amendment of section 36.

"the Local Board to which the Union Committee creating such appointment is subordinate," the words "the District Board" shall be substituted.

New section 41A.

22. After section 41 of the said Act, the following shall be inserted, namely:—

Chairman of Union Committee.

"41A. (1) Every Union Committee shall, from time to time, elect one of its members to be Chairman of the Committee.

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(2) The election of any person to be Chairman of a Union 1908. Committee shall be subject to the approval of the District Board.

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- (3) If a Chairman of a Union Committee be not elected within the period prescribed in this behalf by rule made under clause (c) of section 138 of this Act, the District Board shall appoint a member of the Committee to be Chairman.
- 23. In section 44 of the said Act, for the words, "the Local Board to which it is subordinate as herein-Amendment of section 44. after provided," and for the words, "the Local Board," the words, "the District Board," shall be substituted.

24. To section 48 of the said Act the Addition to section 44. following shall be added, namely:—

"Explanation.—Alterations or modifications may be made or directed by the Commissioner under this section on any of the grounds mentioned in the penultimate paragraph of section 47."

25. To section 50 of the said Act, the Addition to section 50. following shall be added, namely:—

"Provided that no loan shall be raised for the purpose of constructing and maintaining a railway or tramway under the provisions of section 80 unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose, and in favour of which a majority of not less than twothirds of the members of the District Board have voted."

26. (1) After clause (1) of section 52 Amendment of section of the said Act, the following shall be in-52 serted, namely:--

- "(1a) all sums received under any loan raised under section 50,".
- (2) For clause (3) of the said section 52, the following shall be substituted, namely :-
 - "(3) all sums directed by notification under section 31 of the Cattle Trespass Act, 1871,* to be placed to the credit of the Fund."
- (3) After clause (5) of the said section 52, the following shall be inserted, namely: -
 - "(5a) all receipts accruing within the district from tolls or leases under Part III., heading D (1), of this
- (4) Before the final sentence of the said section 52, the following shall be inserted, namely:

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- "The balance of the District Road Fund mentioned in clause (1) of this section shall be placed to the credit of the District Fund under a separate head."
- 27. (1) In the first line of section 53 of the Bengal Local Self-Amendment of section Government Act of 1885,* after the words 53. "The District Fund shall," the following shall be inserted, namely:—
 - "subject to the provisions of section 109 of the Cess Act, 1880,† as amended by this Act."
- (2) In clause Fourthly of the said section 53, after the figures "35," the following shall be inserted, namely:—
 - "and of any grants made for supplementing contributions by members of such establishments to any Provident Fund created under section 35A."
- (3) For clause /ifth/y of the same section, the following shall be substituted, namely:—
 - " Fifthly.—To the payment of—
 - (a) expenses incurred by the District Board in-
 - (i) the construction, repair, and maintenance of any works which may become vested in, or be placed under the control and administration of, such Board under Part III. of this Act;
 - (ii) the acquisition, by purchase or otherwise, of offices for the use of the District Board, or of a house and land for the residence of the District Engineer, or the acquisition of land for, and the construction of, such offices or house; and
 - (iii) the performance of duties imposed, and the exercise of powers conferred, by this Act;
 - (b) advances granted to members of the establishments of the District Board for the purpose of enabling them to acquire or construct residences for themselves;
 - (c) any contribution made by the District Board under Part III. of this Act; and
 - (d) any sums assigned by the District Board to a Local Board or Union Committee under this Act."
 - (4) In clause Sixthly of the same section, for the words, "of the travelling expenses incurred by members of the District Board in attending meetings of the Board or meetings of a Joint Committee," the following shall be substituted, namely:—
 - "(a) of travelling expenses incurred by deligates of the District Board in attending meetings convened under the rules made by the Lieutenant Governor in pur-

^{*} Ben. Act III. of 1885.

suance of sub-section (4) of section 1 of the Indian Councils Act, 1892,* for the purpose of recommending a person to be nominated as a Member of the Lieutenant-Governor's Council;

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- (b) of travelling expenses incurred by members of the District Board or any Local Board in attending meetings of the District Board or Local Board or meetings of a Committee or Joint Committee; and
- (c) in such cases, if any, as the Lieutenant-Governor may direct, of travelling expenses incurred by members of the District Board or any Local Board in performing journeys for carrying out other objects of this Act: and
- (d) of the expenses of any of the poorer inhabitants of the district for journeys to and from any hospital established in any part of British India for the treatment of special diseases,"
- (5) In proviso (1) to the said section 53, after the word "that," the words, figures, and letter, "except as is provided in section 99A," shall be inserted,
- (6) After proviso (2, to the said section 53, the following shall be inserted, namely:
 - "(3) that the application of the balance of the District Fund mentioned in clause (1) of section 52 of this Act to any object other than those referred to in section 109 of the Cess Act, 1880,† as amended by this Act, shall be subject to such rules as the Lieutenant. Governor may prescribe."

New section 53A

28. After section 53 of the Bengal Local Self-Government Act of 1885, the following shall be inserted, namely:-

Temporary or accidental deviations from provisions relating to crediting or ap-

plication of District Road

Fund

"53A. If any deviation from the provisions of this Act, or of any rule made hereunder, or of section 109 of the Cess Act, 1880,† as amended by this Act, relating to the crediting or application of the balance of the District Road Fund mentioned in clause (1) of section 52 of

this Act, is shown, to the satisfaction of the Lieuteuant-Governor, to have been of temporary duration or of an accidental character, he may cause a declaration to be made to that effect;

and such deviation shall thereupon be deemed to be valid notwithstanding any of the provisions hereinbefore referred to."

29. For clause (1) of section 56 of the Bengal Local Self-Government Act of 1885,‡ the following Amendment of section 56 shall be substituted namely:—

^{*} Stat. 55 & 56 Vict., c. 14

[†] Ben. Act IX. of 1880.

1908. Act 5. "(1) all sums directed by notification under section 31 of the Cattle Trespass Act, 1871,* to be placed to the credit of the Fund."

30. In section 58 of the Bengal Local Self-Government Act

Amendment of section 58. of 1885,† for the words, "the Local Board to which such Union Committee is subordinate," the words, "the District Board," shall be substituted.

Amendment of section 59.

31. In section 59 of the said Act, for the letter "D," the letter "E" shall be substituted.

Amendment of section 60.

32. In section 60 of the said Act, for the letter "E," the letter "F" shall be substituted.

New section 61.

33. For section 61 of the said Act, the following shall be substituted, namely:—

"61. Every District Board shall perform such functions as may be transferred to it by notification under section 31 of the Cattle Trespass Act, 1871."*

New section 63.

34. For section 63 of the Bengal Local Self-Government Act of 1885,† the following shall be substituted, namely:—

Other schools.

"63. The District Board may, subject to any rules made by the Lieutenant-Governor under this Act,—

- (a) with its own consent, be charged with, and made responsible for, the maintenance and management of any other schools or class of schools within the district; or
- (b) make grants in aid of any such schools, whether the same be under public or private management."

New section 64A.

35. After section 64 of the said Act, the following shall be inserted, namely:—

Provision, maintenance, and management of students' hostels.

"64A. The District Board may, subject to any rules made by the Lieutenant-Governor under this Act,—

- (a) provide buildings to be used as students' hostels in connection with schools for the maintenance and management of which the Board is responsible under section 62 or section 63, and maintain and manage such hostels; or
- (b) make grants in aid of any shool referred to in section 63 or section 64, or any other school, college, or edu-

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cational institution, for the purpose of providing buildings to be used as students' hostels in connection with such school, college, or institution, or for the purpose of maintaining and managing such hostels."

- 36. In section 65 of the said Act, for the words, "the improvement of primary schools within the district under private management," the following shall be substituted, namely:—
 - "(a) the improvement of any schools or class of schools within the district under private management; or
 - (b) the maintenance or improvement of any schools or class of schools maintained and managed by the District Board; or
 - (c) the provision of buildings to be used as students' hostels in connection with any school referred to in section 64, or in clause (a) or clause (b) of this section, or any other school, college, or educational institution, and the maintenance and management of such hostels."

New sections 65A and 65B.

37. After section 05 of the said Act, the following shall be inserted, namely:—

"65A. The hostels referred to in sections 64A and 65 may be situated either within the area directly subject to the authority of the District Board, or within any place or town lying within that area in which the Bengal Municipal Act, 1884,* is for the time being in force.

Constitution and functions of Education Committees.

"65B. (1) Every District Board shall appoint, to be members of an Education Committee,—

- (a) the Deputy Inspector of Schools;
- (b) three members of the District Board; and
- (c) not more than three residents of the district not being members of the District Board.
- (2) The appointment of any person referred to in clause (c) of sub-section (1) to be a member of an Education Committee shall be subject to the approval of the Commissioner;

and, when his appointment has been so approved, such person shall, for the purposes of sub-clause (b) of clause Sixthly of section 53, be deemed to be a member of the District Board.

- (3) It shall be the duty of a Education Committée, subject to the contrôl of the District Board and to any rules made by the Lieutenant-Governor under section 138,—
 - (i) to superintend all matters connected with the finances, accounts, maintenance, and management of all schools maintained by the District Board, and

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- (ii) to determine the conditions to be complied with when grants are made by the District Board in aid of other schools.
- (4) Nothing in the foregoing sub-sections shall apply to schools referred to in section 64."

38. To section 67 of the Bengal Local Self-Government Act of 1885,* the following shall be added, namely:—

- "A District Board may also provide for-
 - (a) the training and employment of compounders, midwives, and veterinary practitioners; and
 - (b) the promotion of free vaccination." *
- 39. In section 73 of the said Act, after the words, "for the purposes of this Act, the words and figures, "but subject to the provisions of Chapter III. of Part III. thereof," shall be inserted.

New section 78A.

40. After section 78 of the said Act, the following shall be inserted, namely:

- Power to turn, divert discontinue, or close road.

 Power to discontinue, or close road.

 missioner, turn, divert, discontinue, or permanently close any road which is under the control and administration of, or is vested in, the District Board."
 - 41. (1) In section 82 of the said Act, for the words "Lieute-nant-Governor," the words "Governor-General in Council" shall be substituted.
- (2) To the same section, the following shall be added, namely:-
 - "Provided that no application for the said sanction shall be made, in the case of a railway or tramway, unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose, and in favour of which a majority of not less than two-thirds of the members of the District Board have voted."

Addition to section 86. 42. To section 86 of the said Act, the following shall be added, namely:—

"and the power of the District Board to make any contribution under section 79 shall be subject to any rules made by the Lieutenant-Governor under this Act, prescribing conditions precedent to the making of such contribution."

New heading and new section 86 of the said Act, section 86 the said Act, the following shall be inserted, namely:—

"D (1).-Tolls on Bridges.

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Power of District Board to establish toll-bars and levy tolls.

"86A. The District Board, with the sanction of the Lieutenant-Governor, may establish a toll-bar—

- (1) on any bridge in the district which has, after the date of the commencement of the Bengal Local Self-Government (Amendment) Act, 1908, been constructed or purchased out of the District Fund, or to the cost of the construction or purchase of which contribution has, after the said date, been made out of the District Fund; or
- (ii) on any road-way or foot-way of a railway-bridge which has, after the said date, at the instance of the District Board, and out of the District Fund, been so constructed or widened as to allow the passage of persons, vehicles, or animals; or
- (111) at any place in the district, adjacent to any bridge referred to in clause (1) or clause (11), at which tolls may conveniently be levied;

and may levy tolls at such toll-bar on persons, vehicles, and animals passing over such bridge, road-way, or foot-way.

Provided as follows:-

- (1) no toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering—
 - (a) the expenses incurred by the District Board in constructing, purchasing, contributing to, or widening, such bridge, road way, or foot-way,
 - (b) the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry and in recouping itself for the partial or complete loss of receipts in respect of any public ferry referred to in clause (4) of section 52, when such loss results in either case from the construction of such bridge, or the construction or widening of such road-way or foot-way,
 - (c) interest on such expenses, at the rate of four per centum per annum, and
 - (d) the capitalised value of the estimated cost to the District Board of maintaining such bridge, roadway, or foot-way and of renewing it if it requires periodical renewal;
- respect of any bridge, road-way, or foot way, the cost or estimated cost of which, as indicated in clauses (a).

1908 Act 5 (b), and (d) of proviso (1), was or is less than ten thousand rupees.

"86B. The District Board may grant a lease, for any period not exceeding three years, of any toll-bar es-Lease of toll-bar. tablished under section 86A of this Act.

Procedure where two Dis trict Boards have contributed towards cost of bridge,

"86C. When the District Boards of two adjacent districts, having jointly constructed, purchased, or contributed towards the cost of the construction or widening of a bridge, roadway, or foot-way, have received sanction under sec-

tion 86A of this Act to the establishment of a toll-bar, the tolls shall be levied or granted in lease by such District Board as the Lieutenant-Governor may, in his order according sanction, direct; and the proceeds of such tolls, or of the lease thereof, shall be adjusted between the two District Boards according to rules made in this behalf by the Lieutenant-Governor.

- "86D. (1) The following persons and things shall be exempted from payment of tolls at any toll bar established under section 86A of this Act, Exemptions. namely:-
 - (a) Government stores and persons in charge thereof;
 - (b) police-officers and other public officers travelling on duty, District Board officers so travelling, persons in the custody of any of the officers aforesaid, property belonging to or in the custody of any of the officers aforesaid and vehicles and animals employed by any of the officers aforesaid for the transport of such persons or property;
 - (c) conservancy carts and other vehicles and animals belonging to the District Board and persons in charge thereof; and
 - (d) any other class of persons or things which may be exempted by order of the District Board.
- (2) In granting a lease of any toll-bar, the District Board may stipulate that any servants and property of the District Board and any other persons and things shall be exempted from payment of tolls thereat.
- "86E. (1) When it has been determined that tolls shall be levied at any toll-bar established under sec-Rates of tolls. tion 86A of this Act, the District Board shall make and publish an order specifying the rates at which the tolls shall be levied.
- (2) Such rates shall be subject to the sanction of the Commissioner, and may, from time to time, be varied with the like sanction.

"86F. (1) A table of such tolls, legibly printed or written in Table of tolls to be hung the vernacular of the District, shall be hung up in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.

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- (2) In default of compliance with sub-section (1) of this section the toll-collector, or the lessee of the toll-bar, as the case may be, shall be liable to fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first during which the default continues.
- "86G. The District Board, or the lessee of any toll-bar, may Power to compound for to be paid by such person for a certain sum tolls. to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the rates specified under section 86E of this Act.
- "86H. Any toll-collector or lessee of a toll-bar established

 Power of toll collector or under section 86A of this Act may refuse to allow any person to pass through the toll-bar until the proper toll has been paid.
- "86]. Whoever, having rendered himself liable to the payment

 Penalty for refusing to of toll, refuses to pay the toll, shall be liable to fine which may extend to fifty rupees.
- "86K. If resistance is offered to any person authorized under Police-officers to assist this Chapter to collect tolls, any Police-officer whom he may call to his aid shall be bound to assist him; and such Police-officer shall, for that purpose, have the same powers as he has in the exercise of his ordinary police-duties.
- "86L. If any person authorized under this Chapter to collect

 Penalty for taking un. tolls demands or takes any higher tolls than
 authorized tolls the tolls authorized under this Chapter, he
 shall be liable to fine which may extend to fifty rupees, and, in
 default of payment, to imprisonment for a term which may extend
 to one month.
- "86M. (1) When a toll-bar has been established and tolls
 District Board to publish have been levied, under section 86A of this
 expenses, etc., of toll-bars. Act, in respect of any bridge, roadway, or
 foot-way, the District Board shall, at the end of each financial year
 publish, by causing to be posted up at their office, an abstract
 account showing—
 - (a) the amount of the expenses incurred by the District
 Board in constructing, purchasing, contributing to,
 or widening the bridge, road-way, or foot-way;
 - (b) the amount of the expenses incurred by the District
 Board in paying compensation to the owner of any
 private ferry for the partial or complete loss of income from such ferry, and in recouping itself for the

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partial or complete loss of receipts in respect of any public ferry referred to in clause (4) of section 52, when such loss results in either case from the construction of such bridge, or the construction or widening of such road-way or foot-way;

- (c) the amount of interest which has accrued due on such expenses;
- (d) the capitalised value of the estimated cost to the District Board of maintaining the bridge, road-way, or footway, and of renewing it if it requires periodical renewal: and
- (e) the amount which has been received from the profits of the said toll-bar since its establishment.
- (2) As soon as such expenses, interest, and capitalised value have been recovered as aforesaid, such toll-bar shall be removed, and tolls shall no longer be levied in respect of such bridge, roadway, or foot-way."

New section 88A.

44. After section 88 of the said Act, the following shall be inserted, namely:—

Power to contribute towards cost of municipal water-supply.

"88A. A District Board may, with the sanction of the Lieutenant-Governor, contribute such annual or other sum as may be agreed upon towards the cost of-

- (a) the construction, repair, and maintenance, under the provisions of the Bengal Municipal Act, 1884,* of water-works, wells, or tanks within the district, or
- (b) taking measures under the said Act for the prevention of plague in the district:

Provided that no application for such sanction shall be made unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose, and in favour of which a majority of not less than two-thirds of the total number of members of the District Board have voted."

45. For section of the Bengal Local New section g1. Self-Government Act of 1885,† the following shall be substituted, namely:—

Constitution and functions of Sanitation Committees and appointment of Sanitary Inspector.

- "91. (1) Every District Board shall appoint, to be members of a Sanitation Committee, not more than five, nor less than three, members of the Board.
- (2) The Civil Surgeon of the district shall be a member ex officio of the Sanitation Committee of his district,
- (3) It shall be the duty of a Sanitation Committee, subject to the control of the District Board, and to any rules made by the

^{*} Ben. Act III. of 1884.

Lieutenant-Governor under section 138, to initiate and supervise works connected with the sanitation of the district, and to exercise such of the powers of the District Board as may be delegated to it in accordance with such rules.

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- (4) The District Board shall also appoint a properly qualified person to be its Sanitary Inspector, and, subject to the provisions of section 33, fix the salary of such Sanitary Inspector and the details of the establishment subordinate to him.
- (5) The Lieutenant-Governor may, for reasons which may to him appear to be sufficient, exempt any District Board, wholly or partially, from the operation of this section."
 - 4. (1) In the heading over section 99 of the said Act, for the word "Relief," the words "and Distress" shall be substituted.
- (2) In the said section, after the word "famine," the words "or serious distress" shall be inserted
 - (3) To the said section, the following shall be added, namely:-
- (4) distribute such gratuitous relief, in the form of doles of money or food, as may be necessary."

New section 99 A. 47. After section 99 of the said Act, the following shall be inserted, namely:—

"99A. It shall be lawful for a District Board, with the sanction Irrigation works for teller of the Commissioner, to incur expenditure of famine or scarcity.

on any local irrigation work which may appear to it to be necessary for the purpose of preventing, or mitigating the effects of, famine or scarcity within its district:

Provided that no such expenditure shall be incurred unless such irrigation work has been sanctioned by the Lieutenant-Governor as a relief work in accordance with rules made under this Act."

- 48. (1) In section 100 of the said Act, for the words, "subject Amendment of section to any rules made by the Lieutenant-Governor." the words, "subject to such rules and restrictions as the Lieutenant Governor may, from time to time, prescribe," shall be substituted.
- (2) In clause (3) of the said section, for the word "its," the word "the" shall be substituted.
- (3) After the said clause (3), the following shall be inserted, namely:—
 - "(3a) establish and maintain veterinary dispensaries for the reception and treatment of horses, cattle, and other animals, and charge such fees for the use of such dispensaries as may from time to time be approved by the Commissioner:

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Treatment of diseases of (3b) appoint and pay quanimals. lifted persons to prevent and treat diseases of horses, cattle, and other animals;

Breeding of animals. (3c) provide for the improvement of the breed of horses, cattle, or asses, and for the breeding of mules;

Grants in aid of agricultural and veterinary improvements.

of the objects specified in clause (3a) make grants in aid of measures for improving agriculture or for carrying out any of the objects specified in clause (3a) or clause (3c); and ".

- 49. In section 104 of the said Act, for the words "Local Board,"

 Amendment of section in both places in which they occur, the words
 "District Board" shall be substituted.
- 50. (1) In sections 105, 106, and 107 of the said Act, for the Amendment of sections words "Local Board," wherever they occur, the words "District Board" shall be substituted.
- (2) In the said section to5, for the words, "an estimate of the probable expenditure of the Committee," the words, "an estimate of the probable receipts and expenditure of the Committee under each head of account," shall be substituted.
- (3) To the said section 105, the following shall be added, namely:—
 - "Every estimate submitted under this section shall be subject to the sanction of the District Board, who may, before sanctioning any estimate, modify it as they may think fit."
- (4) In the said section 107, after the words "village roads," the words "and bridges thereon" shall be inserted.
- 51. (1) After the words "village-roads," in section 108 of the

 Amendment of sections said Act, and where they first occur in section 109 and 109. tion 109 thereof, the words "and bridges thereon" shall be inserted
- (2) In the said section 108, after the words "such roads," the words "and bridges" shall be inserted
- (3) After the word "road," in clauses (c) and (d) of the said section 109, the words "or bridge thereon" shall be inserted.

Amendment of section 110. 52. In section 110 of the said Act,—

- (a) for the words "Local Board" in the first and third places in which they occur, the words "District Board" shall be substituted; and,
- (b) for the words "Local Board" in the second place in which they occur, the words "District Board or of a Local Board" shall be substituted.

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New section III

53. For section 111 of the said Act, the following shall be substituted, namely:—

"III. Every Union Committee shall perform such functions as may be transferred to it by notification under section 31 of the Cattle Trespass Act, 1871."*

54. For section 114 of the said Bengal Local Self-Government
Act of 1885,† the following shall be substituted, namely:—

"114. A Union Committee shall, if required to do so by the Registration of births and Magistrate of the district, provide for the deaths.

registration of births and deaths within the Union, and shall submit such returns thereof as the said Magistrate may direct."

New sections 115 to 119.

55. For sections 115 to 119 of the said Act, the following shall be substituted, namely:—

Duties of Union Committee as to sanitation, conservancy, and dramage.

"115. Every Union Committee shall, subject to the control of the District Board, and in accordance with rules made by the Lieutenant-Governor under this Act,—

- (1) provide, as far as possible, for the sanitation and conservancy of the Union and the prevention of public nuisances therein;
- (2) make special arrangements for the sanitation and conservancy of fairs and metas held within the Union;
- (3) have control of all drains and other conservancy works within the Union which are not under the control of any other authority; and
- (4) execute all works which are necessary for improving the sanitation, conservancy, or drainage of the Union:

Provided that the District Board may itself undertake any such work which, by reason of its magnitude, or of the amount of expense likely to be incurred thereon, cannot, in the opinion of the District Board, be satisfactorily executed by the Union Committee.

- Powers of Union Com. reason, it is necessary to improve the sanimittee as to sanitation, tary condition of any village or part of a conservancy, and drainage. village within the Union, the Committee may, in accordance with a scheme approved by the District Board, and sanctioned by the Commissioner under rules made by the Lieutenant-Governor under this Act,—
 - (a) cause huts or privies to be removed, either wholly or in part;

^{*} Act I. of 1871.

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- (b) cause private drains to be constructed, altered or removed;
- (c) cause streets, passages, and public drains to be constructed or widened;
- (d) cause tanks or low lands to be filled up or deepened;
- (e) cause such other improvements to be made as, in its opinion, are necessary to improve the condition of such village or part.
- (2) The Union Committee may, by written notice,—
 - (i) require the owner or occupier of any hut, or the owner of any privy, to remove such hut or privy, either wholly or in part, in pursuance of clause (a) of subsection (1); or
 - (ii) require the owner or occupier of any building to construct private drains therefor, or to alter or remove private drains thereof, in pursuance of clause (b) of sub-section (1),

within a period to be specified in the notice.

- (3) If any work required by any such notice is not executed within the period specified in the notice, the Union Committee may themselves cause such work to be carried out.
- (4) All expenses incurred by the Union Committee under subsection (1) or sub-section (3), including such reasonable compensation as the Committee may think fit to pay to the owners or occupiers of huts or privies removed, shall be met out of the Union Fund.
 - "117. (1) The Union Committee may, with the sanction of the District Board, employ a special establishment for the cleansing of any village within the Union.
- (2) If any village for which no establishment is maintained under sub-section (1) appears to the Union Committee to be in a filthy condition, the Committee may, by written notice, require the persons who occupy buildings in the village to cleanse their holdings to the satisfaction of the Committee, within a period to be specified in the notice.
- (3) If any person on whom notice has been served under subsection (2) fails to comply with the requisition contained in the notice, the Union Committee shall,

unless reasonable cause to the contrary is shown, cause his holding to be cleansed, and

recover from such person such portion of the costs of such cleansing as may be approved by the Sanitation Committee, as if the same were an arrear of the assessment imposed under the

Village Chaukidari Act, 1870,* or, where the Chota Nagpur Rural Police Act, 1887,† is in force, under that Act.

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Power of Union Committee may, mittee to control build-subject to rules made by the Lieutenant-lng, and penalties for Governor under this Act, by written order,—disobedience.

- (a) direct, in accordance with a scheme approved by the District Board and sanctioned by the Commissioner, in respect of any village, that no building which it is proposed to erect in such village, and no addition to any existing building therein, shall be placed in advance of an alignment to be prescribed by the Committee and demarcated on the ground, and
- (b) prescribe, in accordanc with the said scheme, the space which shall intervene between each new building, and between new buildings and any road in the village
- (a) Where any building, or any addition thereto, has been placed in contravention of an order passed by the Union Committee under sub-section (1), the Union Committee may apply to the District Magistrate, and such Magistrate may make an order—
 - (i) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub section (i) be demolished by the owner of the building, or altered by him to the satisfaction of the Committee, as the case may require, or
 - (ii) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished or altered by the Union Committee at the expense of the owner':
 - Provided that the Magistrate shall not make any such order without giving the owner and occupier full opportunity of adducing evidence and of being heard in defence.
- (3) If any person, to whom a direction to demolish or alter any building is given under sub-section (2), clause (1), fails to obey the same, he shall be liable to fine which may extend, in the case of a masonry building, to one hundred rupees, and, in the case of any other building, to twenty rupees, and to further fine which may extend, in the case of a masonry building, to ten rupees, and, in the case of any other building, to two rupees, for each day during which he so fails after the first day.

^{*} Ben. Act VI. of 1870.

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"118A. (1) A Union Committee may provide the Union or water-supply.

Water-supply.

any part thereof with a supply of water proper and sufficient for public and private purposes; and, for the purposes of this section, may—

- (a) construct repair, and maintain tanks or wells, clear out streams or vater-courses, and do any other necessary acts;
- (b) with the sanction of the District Board, purchase or acquire by lease any tank, well, stream, or watercourse, or any right to take or convey water, within or without the Union;
- (c) with the consent of the owner thereof, utilize, cleanse or repair any tank, well, stream, or water-course within the Union, or provide facilities for obtaining water therefrom;
- (d) deal with any tank, well, pool, ditch, drain, or place containing or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudicial to health—by draining or cleansing it, or otherwise preventing it from being prejudicial to health, but not so as in any case to interfere with any private right; or
- (e) contract with any person for a supply of water.
- (2) When a Union Committee has, under clause (c), with the consent of the owner, cleansed or repaired, or provided facilities for obtaining water from, any tank, well, stream, or water-course, the same shall, subject to any rights retained by the owner, with the concurrence of the Committee, be reserved for drinking and culinary purposes, and shall be kept open to access by the public.
- (3) Any tank, well, stream, or water-course which a Union Committee may construct, repair, or maintain under clause (a), or purchase or acquire by lease under clause (b), shall remain under the control and administration of the Union Committee; and the Committee may, by order duly published in the village or villages in which such tank, well, stream, or water-course is situated, set apart the same or, subject to the provisions of clause (c), any other tank, well, stream, or water-course within the Union for the supply of water for drinking and culinary purposes.
- "118B. The Union Committee or any member, officer, or servant thereof may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection, or execute any work for the purposes of, or in pursuance of, section 115, section 116, section 117, section 118A;

Provided as follow:-

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- (a) no such entry shall be made between sunset and Act 5.
- (b) no dwelling-house shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry; and
- (c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.
- "118C. (1) If the income of the Union Committee from other sources is insufficient to meet the expenses incurred or likely to be incurred by the Committee in carrying out its duties, or exercising its powers, under section 115, section 118, or section 118A,

the Committee may, from time to time, impose on the owners of buildings, tanks, wells, or water-courses, or the occupiers of buildings, within the Union, or in any village therein, such assessment as may be required approximately to meet the deficiency, together with ten per cent. above such sum to meet the expenses of collection and losses due to non-realisation of their shares from defaulters:

Provided that such assessment shall not be imposed unless-

- (i) it is authorized by a resolution which has been passed at a meeting specially convened for the purpose, and in favour of which a majority of not less than two thirds of the members of the Union Committee have voted, and
- (11) it is previously sanctioned by the District Board and the Commissioner.
- (2) The Union Committee shall appoint one of their number or any other person to receive and collect the said assessment, and to grant receipts for the same, and to keep the accounts thereof; and may permit the person so appointed to retain any sum not exceeding five per cent. of the amount collected by him to repay the costs of such collection.
- (3) The provisions of sections 15 to 19, 25 to 29, 31 to 34,46A, 46B, and 63 of the Village-chaukidari Act, 1870,* or, where the Chota Nagpur Rural Police Act, 1887,† is in force, the provisions of sections 9, 10 13, 15 to 18, 20, 21' 34, and 36 of that Act, shall apply to such assessment and the payment and recovery thereof:

^{*} Ben Act VI. of 1870.

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- (a) all references, in any of the said sections of the Village Chaukidari Act, 1870,* to a panchayat shall be construed as references to the Union Committee;
- (b) the referenes, in section 46B of the said Village Chaukidari Act, 1870,* to the chaukidari assessment, shall be construed as references to the assessment imposed under this section;
- (c) all references, in any of the said sections of the Chota-Nagpur Rural Police Act, 1887,† to the Deputy Commissioner or the District Superintendent of Police shall be construed as references to the Union Committee;
- (d) the amount to be assessed on any one person shall not exceed five rupees per mensum;
- (e) the amount assessed on any person may be made payable, either in lump, or periodical instalments; and
- (f) the proceeds of the said assessment shall be credited to the Union Fund.

Appeals against orders, "118D. Any person who is aggrieved by any awards, and assessments. order of a Union Committee—

- (i) directing such person to take any action with regard to his property under sub-section (2) of section 116, sub-section (2) of section 117, or sub-section (1) of section 118; or
- (ii) awarding or refusing to award compensation to such person under sub-section (4) of section 116: or
- (iii) making an assessment in respect of any property of such person in accordance with the provisions of section 118C;

may, within three months from the date of such order, appeal to a sub-committee of members of the District Board to be constituted under clause (e) of section 32 of this Act; and the decision of such sub-committee shall, subject to the exercise of a power of revision at the discretion of the Commissioner, be final.

- Power of District Board sions of this Act, the District Board may, to subordinate Union Committee to Local Board.

 Union Committee shall act as the agent of, and shall be subject to the control of, a Local Board instead of the District Board, either for all purposes, or for the purposes specified in the order.
- (2) Any order made under sub-section (1) may, with the like sanction, be revoked.

^{*} Ben. Act VI. of 1870.

(3) So long as an order made under sub-section (1) with respect to any Local Board continues in force, the references to the District Board in the foregoing sections of this Act shall so far as may be necessary, be read as if made to such Local Board."

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Amendment of section 130. 130 of the said Act,—

- (a) after the figures "124," the figures "125" shall be inserted, and
- (b) for the words "by the Local Board," the words and figures, "by the District Board or the Local Board to which the Committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate," shall be substituted.
- (2) In the third paragraph of the same section, after the words "Local Board," the words "or Union Committee" shall be inserted.
- 57. In section 131 of the said Act, after the words "Local Amendment of section Board" in both places in which they occur, the words " or Union Committee" shall be inserted.

Amendment of section 132.

58. In section 132 of the said Act—

- (1) after the words "Local Board" in the first four places in which they occur, the words "or Union Committee" shall be inserted, and
- (2) after the words "the Board" in the second place in which they occur, the words "or Committee" shall be inserted.

New section 133.

59. For sections 133 and 134 of the said Act, the following shall be substituted, namely:—

"133. (1) If a dispute arises between two or more Union

Disputes between two or more Union Committees which are subordinate to the same District Board, or which have been declared, by any, order under section 119, to be, for the purposes off this section, subordinate to the same Local Board, the matter shall be referred to such District Board or Local Board, as the case may be, and the decision of the Board thereon shall be final and binding.

(2) If a dispute arises betwen two or more Union Committees within the same district, and such Committees have not all been so declared to be subordinate to the same Local Board, the matter shall be referred to the District Board; and the decision of the District Board thereon shall be final and binding."

Amendment of section 138.

60. (1) To clause (a) of section 138 of the said Act, the following shall be added, namely:—

1908. "and determining the authority who shall decide disputes re-Act 5. lating to such elections;".

- (2) In clause (f) of the same section, for the word "immediate," the word "intermediate" shall be substituted.
- (3) To clause (g) of the same section, the following shall be added, namely:—
 - "and declaring what circumstances shall be a disqualification for continuance of employment under that section;".
- (4) After clause (h) of the same section, the following shall be inserted, namely:—
 - "(hr) prescribing the conditions on which a house and land may be acquired, or on which land may be acquired and a house constructed, by the District Board, for the residence of the District Engineer, and the terms on which the District Engineer may be required to occupy the same;
 - "(h2) regulating the application of the balance of the District Fund mentioned in clause (1) of section 52 of this Act to objects other than those mentioned in section 109 of the Cess Act, 1880,* as amended by this Act;".
- (5) After clause (i) of the same section, the following shall be inserted, namely:—
 - "(j1) prescribing the conditions subject to which grants-inaid may be made under section 63 or section 64A;
 - "(j2) regulating the provision, maintenance, and management of students' hostels under section 64A;
 - "(j3) prescribing the powers and duties of Education Committees, and regulating the removal of members from office;".
- (6) To clause (k) of the said section 138, the following shall be added, namely:
 - "the training and employment of compounders, midwives, and veterinary practitioners, and the promotion of free vaccination;".
- (7) To clause (m) of the same section, the following shall be added, namely:—
- "and prescribing conditions precedent to the making of any contribution under section 79;".
- (8) After clause (m) of the said section 138, the following shall be inserted, namely:—

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- "(m1) prescribing for the purposes of section 86A of this 1908. Act, the mode of ascertaining the capitalised value of the estimated cost to the District Board of maintaining bridges, road-ways, or foot-ways, and of renewing any bridge, road-way, or foot-way which requires periodical renewal, and the mode of determining what classes of bridges, road-ways, or footways require periodical renewal;
- "(m2) prescribing, for the purposes of section 86C, the method in which the proceeds of tolls, or of the lease thereof, shall be adjusted between the District Boards of adjacent districts;".
- (9) In clause (n) of the said section 138, after the words "District Boards," the words "and Sanitation Committees" shall be inserted.
- (10) After clause (0) of the said section 138, the following shall be inserted, namely:
 - "(o1) regulating the duties of District Boards in regard to the relief of famine, serious distress, or scarcity;".
- (11) In clause (p) of the same section, after the word "animals," the following shall be inserted, namely:
 - "the establishment and maintenance of veterinary dispensaries, the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle, and other animals, the improvement of the breed of horses, cattle, or asses, and the breeding of mules, the making of grants-in-aid under clause (3d) of section 100 of this Act;".
- (12) After clause (q) of the same section, the following shall be inserted, namely:-
 - "(q1) regulating the powers and duties of Union Committees in regard to sanitation, conservancy, and drainage under sections 115 to 118C (both inclusive), and defining and prohibiting public nuisances within Unions;".
- (13) To the same section, the following shall be added, namely:-
 - "In making any rule under clause (q1) of this section, the Lieutenant-Governor may provide that a breach of the same shall be punished with fine which may extend to ten rupees."
- Amendment of section 139. 61. In section 139 of the said Act,—
 - (a) before the words "make by-laws," the words "subject to the control of the Lieutenant-Governor," shall be inserted; and,

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- (b) for the words, "confirmed by the Lieutenant-Governor," the words, "confirmed by the Commissioner," shall be substituted.
- 62. In section 142 of the said Act, before the words "or Amendment of section Union Committee," the words, "Local Board" shall be inserted

Addition to section 144. 63. To section 144 of the said Act, the following shall be added, namely:—

"Nothing in this section shall apply to the payment of fees to a legal practitioner for services rendered by him in his professional capacity."

Amendment of Schedule Act, after the words "shall be credited to the District Fund of the district," the following shall be inserted, namely:—

"and shall be applicable to the tollowing objects, and in the following order, namely:—

- (a) the payment of any sums which the District Board may, under the Bengal Local Self-Government Act of 1885,* from time to time, have undertaken to pay as interest on loans raised for expenditure on any of the objects to which the District Road Fund is applicable, and the repayment of such loans;
- (b) the payment of the percentage referred to in clause Thirds of section 53 of the said Act;
- (c) the payment of such of the salaries, pensions, gratuities, grants, and percentages referred to in clause Fourthly of the said section as are required for members of establishments employed for improving the means of communication within the district, or between the district and other districts;
- (d) the payment of such of the expenses referred to in clause Fijthly. of section 53 of the said Act as are incurred in improving the means of communication within the district, or between the district and other districts, or in carrying out the provisions of section 79 of the said Act;
- (e) the payment of the expenses referred to in clause Seventhly of section 53 of the said Act: and
- (f) the making of investments referred to in clause Eighthly of the said section 53."

BENGAL ACT NO. VI. OF 1908.

The Chota Nagpur Tenancy Act, 1908.

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BENGAL ACT NO. VI. OF 1908.

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The Chota Nagpur Tenancy Act, 1908.

[Published in the "Calcutta Gazette" of the 11Th November 1908.]

An Act to amend and consolidate certain Enactments relating to the Law of Landlord and Tenant and the Settlement of Rents in Chota Nagpur.

WHEREAS it is expedient to amend and consolidate certain enactments relating to the law of landlord and tenant and the settlement of rents in Chota Nagpur;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,** to the passing of this Act;

It is hereby enacted as follows:-

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (1) This Act may be called the Chota Nagpur Tenancy Act, 1908.

- (2) It extends to the Chota Nagpur Division, except the district of Manbhum, and except any area or part of an area which is constituted a municipality under the Bengal Municipal Act, 1884,† and which is specified in this behalf by notification issued by the Local Government; and
- (3) The Local Government may, by notification, extend the whole or any portion of this Act to the said district of Manbhum, or to any part thereof,
 - 2. (1) The Acts and Notification specified in Schedule A are hereby repealed in the Chots Nagpur Division except the district of Manbhum.
- (2) When this Act is extended to the district of Manbhum or any part thereof, the Acts specified in Schedule B shall be deemed to be repealed in that district or part, as the case may be; or, if only a portion of this Act is so extended, then so much of the said Acts as is inconsistent with that portion shall be deemed to be so repealed.

Definitions. • 3. In this Act, unless there is anything repugnant in the subject or context,—

(i) "agricultural year" means the year prevailing in a local area for agricultural purposes, and such year shall be deemed to commence and terminate on such dates.

^{*} Stat. 55 & 56 Vict., c. 14.

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- respectively, as the Local Government may, by notification, direct;
- (ii) "bhugut bandha mortgage" means a transfer of the interest of a tenant in his tenancy,
 - for the purpose of securing the payment of money advanced or to be advanced by way of loan,
 - upon the condition that the loan, with all interest thereon shall be deemed to be exinguised by the profits arising from the tenancy during the period of the mortgage;
- (iii) "Board" means the Board of Revenue for Bengal;
- (iv) "Certificate Officer" means the Certificate Officer as defined in clause (2) of section 4 of the Public Demands Recovery Act, 1895;*
- (v) "civil jail" means the civil jail of the district, and includes any place appointed by the Local Government for the confinement of prisoners under this Act;
- (vi) "Commissioner" and "Judicial Commissioner" mean, respectively, the Commissioner and Judicial Commissioner of Chota Nagpur, and include any other person specially empowered by the Local Government to discharge the functions of the Commissioner or Judicial Commissioner, as the case may be, in any particular area;
- (vii) "Deputy Collector" includes an Assistant Collector and any Sub-Deputy Collector who is specially empowered by the Local Government to discharge any of the functions of a Deputy Collector under this Act;
- (viii) "Deputy Commissioner," in any provision of this Act, includes—
 - (a) any Revenue-Officer or Deputy Collector who is specially empowered by the Local Government to discharge any of the functions of a Deputy Commissioner under that provision, and
 - (b) any Deputy Collector to whom the Deputy Commissioner may, by general or special order, transfer any of his functions under that provision;
- (ix) "enhancement" and "ehanced" do not include an increase of rent in respect of land held by a raiyat in excess of the area for which rent has previously been paid by him, or in respect of the conversion of upland, whether within or without his holding, into korkar; but include any commutation of rent payable in money into rent payable wholly or partly in kind;

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- (x) "estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands prepared and maintained under the law for the time being in force by the Deputy Commissioner, and includes Government khas mahals and revenue-free lands not entered in any register;
- (xi) "forest-produce" includes the following, whether taken from a forest or not, that is to say:—
 - (a) wood, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, and myrabolams,
 - (b) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,
 - (c) plants not being trees (including grass, creepers, reeds, and moss), and all parts or produce of such plants,
 - (d) wild animals and skins, tusks, horns, bones, silks, cocoons, honey, and wax, and all other parts or produce of animals, and
 - (e) peat, surface-soil, rock, and minerals (including iron, stone, coal, clay, sand, and limestone, when taken by any person for his own use);
- (xii) "holding" means a parcel or parcels of land held by a raiyat, and forming the subject of a separate tenancy;
- (xiii) "korkar" means land, by whatever name locally known, such as bahbala, khandwat, jalsasan, or ariat, which has been artificially levelled of embanked primarily for the cultivation of rice, and—
 - (a) which previously was jungle, waste, or unclutivated or was cultivated upland, or which, though previously cultivated, has become unfit for the cultivation of transplanted rice, and
 - (b) which has been prepared for cultivation by a cultivator (other than the landlord), or by his predecessor in interest (other than the landlord) with or without the consent of the landlord, according as such consent is required or not by section 64;
- (xiv) "landlord" means a person immediately under whom a tenant holds, and includes the Government;
- (xv) "moveable property" inclddes standing crops;
- (xvi) "mundari khunt-kattidari tenancy." means the interest of a mundari khunt-kattidar;
- (xvii) "pay," "payable," and "payment," when used with reference to rent, include "deliver," "deliverable," and "delivery,"

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- (xviii) "permanent tenure" means a tenure which is heritable, and which is not held for a limited time;
- (xix) "prædial conditions" mean conditions or services appurtenant to the occupation of land, other than the rent; and include rakumats payable by tenants to landlords, and every mahtut, mangan, and madad, and every other similar demand, howsoever denominated, and whether regularly recurrent or intermittent;
- (xx) "prescribed" means prescribed by the Local Government by rule made under this Act;
- (xxi) "proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate;
- (xxii) "registered" means registered under any Act for the time being in force for the registration of documents;
- (xxiii) "rent" means whatever is lawfully payable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant, and includes all dues (other than personal services) which are recoverable under any enactment for the time being in force as if they were rent;
- (xxiv) "resumable tenure" means a tenure which is held subject to the condition that it shall lapse to the estate of the grantor, and be resumable by him or his successor in title—
 - (a) on failure of male-heirs of the body of the original grantee in the male line, or
 - (b) on the happening of any definite contingency other than that referred to in sub-clause (a) of this clause;
- (xxv) "Revenue-officer," in any provision of this Act, means any officer whom the Local Government may appoint to discharge any of the functions of a Revenue-officer under that provision;
- (xxvi) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person;
- (xxvii) "tenure" means the interest of a tenure-holder, and includes an under-tenure, but does not include a mundarl khunt-kattidari tenancy; and

(xxviii) "village" means,-

(a) in any local area in which a survey has been made and a record-of-rights prepared under any enactment for the time being in force, the area included within the same exterior boundary in the village map finally adopted in making such survey and record, as subsequently modified by the decision 1908. (if any) of a Court of competent jurisdiction, and,

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(b) where a survey has not been made and a record-ofrights has not been prepared under any such enactment, such area as the Deputy Commissioner may, with the sanction of the Commissioner, by general or special order, declare to constitute a village.

CHAPTER II.

CLASSES OF TENANTS.

Classes of tenants.

- 4. There shall be, for the purposes of this Act, the following classes of tenants, namely:-
- (1) tenure-holders, including under-tenure-holders.
- (2) raiyats, namely—
 - (a) occupancy-raivats, that is to say, raivats having a right of occupancy in the land held by them,
 - (b) non-occupancy-raiyats, that is to say, raiyats not having such a right of occupancy, and
 - (c) raiyats having khunt-katti rights;
- (3) under-raisats, that is to say, tenants holding, whether immediately or mediately, under raivats, and
 - (4) mundari khunt-kattidars.
- 5. "Tenure-holder" means primarily a person who has Meaning of "tenure-hol- acquired from the proprietor, or from another tenure-holder, a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it; and includes—
 - (a) the successors in interest of persons who have acquired such a right, and
 - (b) the holders of tenures entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869;*

but does not include a mundari khunt kattidar.

means primarily a person who has acquired 6. (1) "Raiyat" a right to hold land for the purpose of cul-Meaning of "raivat." tivating it by himself, or by members of his family, or by hired servants, or with the aid of partners, and includes the successors in interest of persons who have acquired such a right, but does not include a mundari khunt-kattidar.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right 1908. Act 6. to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it, or of grazing cattle on it.

- (a) A person shall not be deemed to be a raiyat unless he holds land, either immediately under a proprietor, or immediately under a tenure-holder, or immediately under a mundari khunt-kattidar.
- (3) In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to—
 - (a) local custom, and
 - (b) the purpose for which the right of tenancy was originally acquired.
- 7. (1) "Raiyat having khunt-katti rights" means a raiyat in Meaning of "raiyat hav. occupation of, or having any subsisting title ing khunt-katti rights." to, land reclaimed from jungle by the original founders of the village or their descendants in the male line, when such raiyat is a member of the family which founded the village or a descendant in the male line of any member of such family:

Provided that no raiyat shall be deemed to have khunt-katti rights in any land unless he and all his predccessors in title have held such land or obtained a title thereto by virtue of inheritance from the original founders of the village.

- (2) Nothing in this Act shall prejudicially affect the rights of any person who has lawfully acquired a title to a khunti.knttidari tenancy before the commencement of this Act.
- 8. "Mundari khunt-kattidar" means a mundari who has

 Meaning of "mundari acquired a right to hold jungle land lor the
 khunt-kattidar." purpose of bringing suitable portions thereof
 under cultivation by himself or by male members of his family,
 and includes—
 - (a) the heirs male in the male line of any such mundari when they are in possession of such land, or have, any subsisting title thereto and,
 - (b) as regards any portions of such land which have remained continuously in the possession of any such mundari and his descendants in the male line, such descendants.

CHAPTER III.

TENURE-HOLDERS.

9. No tenure-holder who holds his tenure (otherwise than Tenure-holder when not under a terminable lease) at a fixed rent liable to enhancement of which has not been changed from the time rent.

of the Permanent Settlement shall be liable

to any enhancement of such rent, anything in the Bengal Decennial Settlement Regulation, 1793,* section 51, or in any other law, to the contrary notwithstanding.

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- 10. No bhuinhar whose lands are entered in any register pre-Certain bhuinhars not pared and confirmed under the Chota Nagliable to enhancement of pur Tenures Act, 1869,† shall be liable to rent. any enhancement of the rent of his tenure.
- 11. (1) When any tenure or portion thereof is transferred by
 Registration of certain succession, inheritance, sale, gift or extransfers of tenures.

 change, the transferee or his successor in title shall cause the transfer to be registered in the office of the landlord to whom the rent of the tenure or portion is payable.
- (2) The landlord shall, in the absence of sufficient reason to the contrary, allow the registration of all such transfers.
- (3) Whenever any such transfer is registered in the office of the landlord, he shall be entitled to levy a registration-fee of the 'ollowing amount, namely:—
 - (a) when rent is payable in respect of the tenure or portion—a fee of two fer centum on the annual rent thereof, provided that no such fee shall be less than one rupee or more than one hundred rupees, and
 - (b) when rent is not payable in respect of the tenure or portion—a fee of two rupees.
- (4) If an application for the resgistration of any transfer of a tenure or portion thereof under sub-section (1) is not made within a period of one year from the date of the transfer, and if the registration tee authorized by sub-section (3) is not paid or tendered within that period, the transferee or his successor in title shall not be entitled to recover, at any time after the expiry of the said period, by suit or other proceeding, any rent which may have become due to him as the owner of such tenure or portion between the date of the transfer and the date of the application for registration.
 - (5) Nothing in this section shall—
 - (i) validate a transfer of any tenure or portion thereof which, by the terms upon which it is held, or by any law or local custom, is not transferable, or
 - (ii) affect the right of the landlord to resume a resumable tenure.
- 12. If any landlord refuses to allow the registration of any Procedure on refusal of such transfer as is mentioned in section 11, landlord to allow registration of transfer of tenure. the transferee or his successor in title may make application to the Deputy Commissioner; and the Deputy Commission shall thereupon, after causing

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notice to be served on the landlord, make such inquiry as he considers necessary; and, if no sufficient grounds are shown for the refusal, shall pass an order declaring that the transfer shall be deemed to be registered.

- 13. Notwithstanding anything contained in section 1 or sec-Division of tenure or dis. tion 12, a division of any tenure or portion tribution of rent. thereof, or a distribution of the rent payable in respect of any tenure or portion thereof, shall not be binding on the landlord unless it is made with the express consent in writing of the landlord, or of his agent if specially authorized in that behalf.
- 14. (1) Upon the resumption of a resumble tenure, evey lien,
 Annulment of incumbransub tenancy, easement, or other right or
 interest created, without the consent or permission of the granter or his successor in
 interest, by the grantee or any of his successors, on the tenure, or
 in limitation of his own interest therein, shall be deemed to be
 annulled, except the following, namely:—
 - (a) any lease of land whereupon a dwelling-house, manufactory, or other permanent building has been erected, or a permanent garden, plantation, tank, canal, place of worship, or burning or burying ground has been made, or wherein a mine has been sunk under lawful authority;
 - (b) any right of a raiyat or collivator in his holding or land, as conferred by this Act or by any local custom or usage;
 - (c) any right to hold land occupied by a sacred grove;
 - (d) any mundari khunt-kattidari tenancy; and
 - (e) any right of a headman of a village or group of villages (whether known as a manki or pradhan or manjhi or otherwise) in his office or land.
- (2) Nothing in clause (a) of sub-section (1) shall confer on any grantee of a resumable tenure, or any of his successors, any right over minerals which he does not otherwise possess.
- 15. The mere registration of a transfer under section 11, or Saving of rights of land. the mere receipt of a registration-fee therelord. under, or the passing of an order by the Deputy Commissioner under section 12, shall not be deemed to imply a consent to, or permission to make, the transfer, within the meaning of section 14; and the landlord shall not be bound by the terms or conditions of any such transfer.

CHAPTER IV.

1908. Act 6.

OCCUPANCY-RAIYATS.

General.

- 16. Every raiyat who, immediately before the commencement Continuance of existing of this Act, has, by the operation of any enoccupancy-rights actment, or by local custom or usage or otherwise, a right of occupancy in any land, shall, when this Act comes into force, have a right of occupancy in that land notwithstanding the fact that he may not have cultivated or held the land for a period of twelve years.
- 17. (1) Every person who, for a period of twelve years, whether Definition of "settled wholly or partly, before or after the commandat." mencement of this Act, has continuously held as a raiyat land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled raiyat of that village.
- (2) A person shall be deemed, for the purposes of this section, to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times.
- (3) A person shall be deemed, for the purposes of this section, to have held as a raiyat any land held as a raiyat by a person whose heir he is.
- (4) Land held by two or more co-sharers as a raiyati holding shall be deemed, for the purposes of this section, to have been held as a raiyat by each such co-sharer.
- (5) A person shall continue to be a settled raiyat of a village as long as he holds any land as a raiyat in that village, and for three years thereafter.
- (6) If a raiyat recovers possession of land under section 71, or by suit, he shall be deemed to have continued to be a settled raiyat notwithstanding his aving been out of possession more than three years.
- (7) If, in any suit or proceeding, it is proved or admitted that a person holds any land as a raiyat, it shall, as between him and the landlord under whom he holds the land, be presumed, for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a raiyat.
- 18. The following classes of persons shall be deemed to be Bhuinhars and mundari settled raiyats for the purposes of this Act in regard to the land in their villages which they cultivate as faiyats (other than their own bhuinhari or mundari khunt-kattidari land, and other than landlords' privileged lands as defined in section 118), and the provi-

1908. sions of sub-sections (3) to (6) of section 17 shall apply to such persons as if they were raisets, namely:—

- (a) where any land in a village, other than land known as manjhihas or bethketa, is entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869*—all members of any bhuinhari family who hold, and have for twelve years continuously held, land in such village, and
- (b) where any village contains land not forming part of a mundari khunt kattidari tenancy, and an entry of mundari khunt-kattidari tenancies, or of mundari khunt-kattidars in such village, has been made in any record-of-rights as finally published under this Act, or under any law in force before the commencement of this Act—all male members of any mundari khunt-kattidari family who hold, and have for twelve years continuously held, land in such village.
- 19. Every person who is a settled raiyat of a village within

 Settled raiyats to have the meaning of section 7 or section 18 occupancy-rights. shall have a right of occupancy in all land (other than landlord's privileged lands as defined in section 118) for the time being held by him as a raiyat in that village.
- 20. (1) When the immediate landlord of an occupancy-holding Effect of acquisition of occupancy-right by landlord. is a proprietor or a permanent tenure-holder, cupancy-right by landlord. and the entire interests of the landlord and the raiyat in the holding become united in the same person by transfer, succession, or otherwise, such person shall not retain a right of occupancy in the holding, but shall hold the same as a proprietor or permanent tenure-holder, as the case may be; but nothing in this sub-section shall prejudicially affect the rights of any third person.
- (2) If an occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, he shall be entitled to hold the land subject to the payment, to his co-proprietors or joint permanent tenure-holders, of the shares of the rent which may be from time to time payable to them; and, if such transferee sub-lets the land to a third person, such third person shall be deemed to be a tenure-holder or a raiyat, as the case may be, in respect of the land.

Illustration,

A, a co-sharer landlord, purchases the occupancy-holding of a raival X. A is entitled himself to hold the land on payment to his co-sharers of the shares of the rent payable to them in respect of the holding. A subjets the land to Y, who takes it for the purpose of establishing tenants on it: Y becomes a tenure-holder in respect of the land. Or A subjets it to Z, who takes \P for the purpose of cultivating it himself: Z becomes a raival in respect of the land.

(3) A person interested in any estate, tenure, village, or land, whether soley or jointly with others, as a temporary tenure-holder, ijaradar, or farmer of rents, or as a mortgagee in possession, shall not, during the period of his lease or mortgage, acquire, by purchase or otherwise, a right of occupancy in any land comprised in his lease or mortgage:

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Provided that nothing in this sub-section shall prohibit the acquisition of occupancy-rights by any village-headman (whether known as pradhan or manjhi or otherwise) who, by local custom or usage, has a right to acquire the same.

Explanation.—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder, or by subsequently holding the land in ijara or farm.

Incidents of Occupancy-right.

Rights of occupancy-raiyat in respect of use of land.

2!. When a raiyat has a right of occupancy in respect of any land, he may use the land—

- (a) in any manner which is authorized by local custom or usage, or,
- (b) irrespective of any local custom or usage, in any manner which does not materially impair the value of the land, or render it unfit for the purposes of the tenancy.
- 22. An occupancy-raiyat shall not be ejected by his landlord

 Protection of occupancy- from his holding except in execution of raiyat from eviction except a decree for ejectment passed on the on specified ground—

 ground—
 - (a) that he has used the land comprised in his holding in a manner which is not authorized by section 21, or
 - (b) that he has broken a condition, consistent with the provisions of this Act, on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.
- 23. If a raiyat dies intestate in respect of a right of occupercolution of occupancyright on death.

 pancy, it shall, subject to any local custom
 to the contrary, descend in the same manner
 as other immoveable property:

Provided that, in any case in which, under the law of inheritance to which the raiyat is subject, his other property goes to the Crown, his right of occupancy shall be extinguished.

Obligation of occupancy-raiyat shall pay rent for his holding at a fair and equitable rate.

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Enhancement of Kent.

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Presumption that rent of occupancy-raiyat is fair and equitable.

25. The rent for the time being payable by an occupancy-raiset shall be presumed to be fair and equitable until the contrary is proved.

- 29. When the rent of an occupancy-raiyat whose rent is Confirmation of rents en- liable to enhancement has been enhanced hanced prior to commence before the commencement of this Act, otherwise than under section 24 of the Chota Nagpur Landlord and Tenant Procedure Act,* such enhanced rent shall be deemed to be lawfully payable—
 - (a) if it has been actually paid continuously for seven years before the commencement of this Act; and
 - (b) if it is not proved to be unfair and inequitable:

Provided that, where the rent lawfully payable by an occupancy-raiyat for his holding has been made an issue in any suit for arrears of rent, and the Court has arrived at a finding on that issue, the rent so found shall be deemed to be lawfully payable by the raiyat for the holding.

Methods in which rent of occupancy-raiyat may be ment of this of this Act,—
enhanced.

- (a) in any area for which a record-of-rights has not been prepared and finally published under this Act, or under any law in force before the commencement of this Act, or for which an order has not been issued under this Act, or under any law in force before the commencement of this Act, for the preparation of such a record, the money-rent of an occupancy-raiyat whose rent is liable to enhancement may be enhanced only by order of the Deputy Commissioner passed under section 29; and
- (b) in any area for which a record-of-rights has been prepared and finally published as aforesaid, or for which an order has been issued as aforesaid for the preparation of such a record, the money-rent of an occupancyraiyat whose rent is liable to enhancement may be enhanced only,—
 - (i) in cases referred to in section 62, section 94, or section 99, by order of the Deputy Commissioner passed under section 29, and
 - (ii) in other cases, by order of a Revenue-officer passed under Chapter XII.

(2) No enhancement of such rent made after the commencement of this Act in any manner other than that referred to in clause (a) or clause (b), as the case may be, whether by private contract or otherwise, shall, for any reason, be recognized or given effect to in any suit or proceeding in any Court.

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Contents of application to Deputy Commissioner C for enhancement.

28. (1) Every application to the Deputy Commissioner for the enhancement of the rent of an occupancy-holding shall specify—

- (a) such particulars as may be prescribed regarding the area, situation, local names, quality, and boundaries of the parcels of land constituting the holding;
- (b) the rates of rent (if any) payable by the raiyat for the different classes or land constituting the holding, and the yearly rent payable for the holding at the date of the application;
- (c) the rates (if any) generally prevailing in the village for corresponding classes of land;
- (d) the date (as nearly as it can be ascertained) when the rates of rent generally prevailing were last adjusted in the village;
- (e) the rates which the applicant desires to claim; and
- (f) the grounds on which the applicant considers that he is entitled to the enhancement claimed.
- (2) Sections 146 to 149 shall apply to every application made under this section.

Procedure on receipt of such application.

29. (1) When any such application has been received, the Deputy Commissioner—

- (a) shall forthwith give notice of the contents thereof to the raiyat, and
- (b) may, if he thinks fit, order a measurement of the land and
- (c) may, upon consideration of all the circumstances set forth in the application, and after hearing any objection advanced by the raiyat, by order, fix such enhanced rent, or otherwise vary the rent for the said land, as to him may seem fair and reasonable:

Provided that no enhancement shall be ordered except on one or more of the following grounds, namely,—

(i) that the rate of rent paid by the raiyat is below the prevailing rate paid by occupancy-raiyats for land of similar quality and with similar advantages;

- (ii) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;
- (iii) that the productive powers of the land held by the raiyat have been increased by an improvement effected, during the currency of the present rent, otherwise than by the agency or at the expense of the raiyat:

Provided also that no enhancement shall be ordered which is, under the circumstances of the case, unfair or inequitable:

Provided, further, that all enhancements shall be limited in the prescribed manner (if any).

- (2) The rent, as fixed or varied under sub-section (1), shall be payable by the said raiyat from the commencement of the agricultural year following the year in which the order is passed, and may be recovered in any suit instituted against him for arrears of rent.
- (3) Nothing in this section shall bar the right of a raiyat to claim at any time under section 34 a reduction of the rent previously paid by him.
- 30. Where the Deputy Commissioner considers that the immePower to direct gradual diate enforcement of the full enhancement
 ordered under section 29 is likely to be
 attended with hardship, he may direct that the enhancement shall
 be gradual; that is to say, that the rent shall increase yearly by
 degrees, for any number of years not exceeding five, until the
 limit of the full enhancement has been reached.

Increase of Rent in respect of Excess Area.

Application for increase of the area for which rent has previously been paid by him, no increase shall be made to the rent payable by him except by order of a Revenue-officer passed under Chapter XII. or by order of the Deputy Commissioner passed on an application made to him by the landlord.

- (2) Every such application shall specify—
 - (a) the yearly rent payable by the raiyat at the date of the application;
 - (b) the area and description of the land for which the said rent is payable;
 - (c) the proceedings (if any) by which the said rent was fixed;
 - (d) the general rate prevailing in the village for corresponding classes of lands;
 - (e) the date (as nearly as it can be ascertained) when the said general rate was last adjusted in the village;

(f) the area and description of the land held in excess of the area for which rent has previously been paid, and in respect of which an increase of rent is claimed; or, if the landlord is unable to indicate any particular land as being held in excess, then the area alone;

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- (g) the amount of the said increase;
- (h) the manner in which the said increase has been, or should be, assessed; and
- (j) any other prescribed particulars.
- (3) If a survey and record-of-rights have been made under this Act, or under any other law in force before the commencement of this Act, in respect of any land referred to in clause (b) or clause (f) of sub-section (a), the "area and description" required by those clauses, respectively, shall be specified by stating the plot number, area, and class of each field included in the land as shown by such survey and record.
- (4) Sections 146 to 149 shall apply to every application made under this section.

Procedure on receipt of such application.

32. (1) When any such application has been received, the Deputy Commissioner—

- (a) shall forthwith give notice of the contents thereof to the raiyat; and
- (b) shall refer to the entry (if any) relating to the tenancy in the record-of-rights prepared under this Act or any other law for the time being in force; and
- (c) may, if he thinks fit, order a measurement of the land held by the raivat; and
- (d) may, upon consideration of all the circumstances set forth in the application, and after hearing any objection advanced by the raiyat, and making such further inquiry as the Deputy Commissioner may think necessary, order such an increase, whether progressive or otherwise, as he may consider to be fair and reasonable:

Provided that, if the landlord proves that, at the time when the measurement on which the claim is based was made, there existed, in the estate or tenure or part thereof in which the holding is situate, a practice of measuring land before settling rents, the Deputy Commissioner may presume that the area of the holding, as entered in any lease or counterpart engagement or (where there is an entry of area in a counterfoil receipt corresponding to the entry in the rent-roll) in the rent-roll relating to the holding, was so entered after measurement:

Provided, also, that an increase of rent shall not be ordered where it would contravene any local custom or usage prohibiting an increase of rent in respect of the increase in area of a holding.

(2) When any increase has been so ordered, it shall be payable from the commencement of the agricultural year following that in which the order is passed, and may be recovered from the raiyat in any suit instituted against him for arrears of rent.

Savings.

- 33. Nothing in sections 31 and 32 shall prohibit a landlord from realizing— *** *
- (a) increased rents from a raiyat for separate parcels of land settled with him in any manner authorized by law, or
- (b) rents on land converted from upland into korkar in accordance with local custom or usage.

Reduction of Rent.

- 34. (1) Any occupancy-raised wishing to claim a reduction of Application to Deputy the rent previously paid by him may present an application to the Deputy Commissioner to assess the rent on the land in respect of which such reduction is sought, and (if necessary) to measure the land.
 - (2) Every such application shall specify—
 - (a) the yearly rent payable by the raiyat at the date of the application;
 - (b) the area and description of the land for which the said rent is payable;
 - (c) the proceedings (if any) by which the said rent was fixed;
 - (d) the general rate prevailing in the village for corresponding classes of lands;
 - (e) the date (as nearly as it can be ascertained) when the said general rate was last adjusted in the village;
 - (f) the amount of reduction claimed;
 - (g) the grounds on which such reduction is claimed; and
 - (h) any other prescribed particulars.
- (3) Sections 146 to 149 shall apply to every application made under this section.

Procedure on receipt of such application.

35. (1) When any such application has been received, the Deputy Commissioner—

- (a) shall forthwith give notice of the contents thereof to the landlord; and
- (b) may, if he thinks fit, order a measurement of the land;

(c) may, upon consideration of all the circumstances set forth in the application, and after hearing any objection advanced by the landlord, by order, fix such reduced rent, or otherwise vary the rent for the said land, as to him may seem fair and reasonable:

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Provided that no reduction shall be ordered except on one or more of the following grounds, namely,—

- (i) that the soil of the holding has, without the fault of the raiyat, become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual;
- (ii) that there has been a fall, not due to a temporary cause in the average local prices of staple food-crops during the currency of the present rent;
- (iii) that the land held by the raiyat is of less area than the area for which rent has previously been paid by him.
- (2) The rent as so fixed or varied shall be payable by the raiyat from the commencement of the agricultural year following the year in which the order is passed, and may be recovered in any suit instituted against him for arrears of rent.
- (3) Nothing in this section shall bar the right of the landlord to claim at any time an enhancement under section 29 of the rent of such raiyat.

Bar to further Enhancement or Reduction of Rent.

36. (1) When the rent of an occupancy-holding in any area

Bar to further enhancement or reduction of rent
where there is no record-ofrights.

referred to in clause (a) of section 27 has
been enhanced by order of the Deputy Commissioner passed under section 29, such
rent shall not again be enhanced for a period

of fifteen years, except-

- (a) by order of the Deputy Commissioner on the ground of a landlord's improvement; or
- (b) by order of a Revenue-officer passed under Chapter XII.
- (2) When the rent of an occupancy-holding in any such area has been reduced by order of the Deputy Commissioner under section 34, otherwise than on the ground specified in proviso (iii) to section 35, such rent shall not again be reduced for a period of fifteen years, except—
 - (i) by order of the Deputy Commissioner on one of the grounds specified in provisos (i) and (iii) to section 35, or
 - (ii) by order of a Revenue-officer passed under Chapter XII,

CHAPTER V.

RAIYATS HAVING KHUNT-KATTI RIGHTS.

Incidents of tenancy of raiyat having khunt-katti rights. 37. The provisions of this Act relating to occupancy-raiyats shall apply also to raiyats having khunt-katti rights:

Provided as follows:-

- (a) subject to any written contract made at the time of the commencement of his tenancy, the rent payable by a raiyat having k hunt-katti rights, for land in respect of which he has such rights, shall not be enhanced if his tenancy of such land was created more than twenty years before the commencement of this Act; and
- (b) when an order is made for the enhancement of the rent payable by a raiyat having khunt-katti rights for any land in respect of which he has such rights, the enhanced rent fixed by such order shall not exceed one-half of the rent payable by an occupancy-raiyat for land of a similar description and with similar advantages in the same village.

CHAPTER VI.

NON-OCCUPANCY RAIYATS.

38. Subject to any local custom or usage, a non-occupancy In itial rent and lease of raiyat shall, when admitted to the occupanon-occupancy raiyat. tion of land, become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission, and shall be entitled to a lease only at such rates and on such conditions as may be so agreed on.

Effect of acquisition by landlord of the right of a non-occupancy rais at in his holding.

39. The provisions of section 20 shall apply in the case of the right of a non-occupancy raisat in his holding in the same way that they apply to an occupancy right.

Conditions of enhancement of rent of non-occupancy raiyat.

- 40. The rent of a non-occupancy raiyat shall not be enhanced except by registered agreement, or by agreement under section 42.
- 41. A non-occupancy raiyat shall, subject to the provisions

 Grounds on which nonoccupancy raiyat may be or more of the following grounds, and not otherwise, namely:—
 - (a) on the ground that he has failed to pay an arrear of rent;

(b) on the ground that he has used the land comprised in his holding in a manner which is not authorized by local custom or usage, or which materially impairs the value of the land, or renders it unfit for the purposes of the tenancy;

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- (c) on the ground that he has broken a condition, consistent with this Act, on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected;
- (d) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired;
- (e) on the ground that he has refused to agree to pay a fair and equitable reat determined under section 42, or that the term for which he is entitled to hold at such a rent has expired.
- Conditions of ejectment on the ground of refusal to agree to pay a fair and equitable rent shall not be instituted against a non-occupancy raiyat unless the landlord has tendered to the raiyat an agreement to pay the rent which he demands, and the raiyat has, within six months before the institution of the suit, refused to execute the agreement.
- (2) A landlord desiring to tender an agreement to a raiyat under this section may either—
 - (a) file it in the office of the Deputy Commissioner for service on the raiyat; or
 - (b) send it to the raiyat direct, either by registered post, or by any other means.
- (3) When an agreement has been filed under clause (a) of subsection (2), the Deputy Commissioner shall forthwith cause it to be served on the raiyat in the manner prescribed under section 264 for the service of notices.
- (4) When an agreement has been served on a raiyat under sub-section (3), or when it is proved to the satisfaction of the Deputy Commissioner that an agreement has been sent to a raiyat by registered post, or, if sent to him by any other means referred to in clause (b) of sub-section (2), has duly reached him, the agreement shall, for the purposes of this section, be deemed to have been tendered.
- (5) If a raiyat on whom an agreement has been served under sub-section (3), or to whom an agreement has been sent under sub-section (2), clause (b), executes it, and, within one month from the date of receipt, files it in the office of the Deputy Commissioner, it shall take effect from the commencement of the agricultural year next following.

- (6) When an agreement has been executed and filed by a raiyat under sub-section (5), the Deputy Commissioner shall forthwith cause a notice of its being so executed and filed to be served on the landlord.
- (7) If the raivat does not execute the agreement and file it under sub-section (5), he shall be deemed, for the purposes of this section, to have refused to execute it.
- (8) If a raiyat refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Deputy Commissioner shall determine what rent is fair and equitable for the holding.
- (9) If the raiyat agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but, on the expiration of that term, shall be liable to ejectment on the second ground mentioned in clause (e) of section 41 unless he has acquired a right of occupancy.
- (10) If the raiyat does not agree to pay the rent so determined, the Deputy Commissioner shall pass a decree for ejectment.
- (11) In determining what rent is fair and equitable, the Deputy Commis sioner shall have regard to the rents generally paid by non-occupancy raisats for land of a similar description and with like advantages in the same village, and (if the Deputy Commissioner thiks fit) in adjoining villages.

CHAPTER VII.

LANDS FXEMPTED FROM CHAPTERS IV. AND VI.

Bar to acquisition of right of occupancy in, and to application of Chapter VI. to, landlords' privileged lands and certain other lands. 43. Notwithstanding anything contained in Chapter IV., a right of occupancy shall not be acquired in, nor shall anything contained in Chapter VI. apply to.—

- (a) landlords' privileged lands referred to in clause (a) of section 118, when they are held by a tenant on a registered lease for a term of years, or on a lease year by year, or
- (b) landlords' privileged lands referred to in clause (b) of section 118, or
- (c) land acquired under the Land Acquisition Act, 1894,* for the Government or any Local Authority or Railway Company, or land belonging to the Government within a cantonment, while such land remains the property of the Government or of any Local Authority or Railway Company.

CHAPTER VIII.

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LEASTS AND TRANSFERS OF HOLDINGS AND TENURES.

Raiyat entitled to a lease. 44. Every raiyat shall be entitled to receive from his landlord a lease containing the following particulars, namely:—

- (a) the quantity and boundaries of the land comprised in his holding; and, where fields have been numbered in a Government survey, the number of each field;
- (b) the amount of yearly rent payable for such land;
- (c) the instalments in which the rent is to be paid;
- (d) if the rent is payable wholly or partially in kind, the proportion or quantity of produce to be delivered, and the time and manner of delivery; and
- (e) any special conditions of the lease.
- 45. Whenever a landlord grants a lease to a tenant, or tenders

 Landlord entitled to to a tenant a lease such as he is entitled to
 counterpart engagement. receive, the landlord shall be entitled to
 receive from such tenant a counterpart engagement in conformity
 with the terms of the lease.

Restrictions on transfer of their rights by raiyats.

46. (1) No transfer by a raiyat of his right in his holding or any portion thereof,—

- (a) by mortgage or lease, for any period, expressed or implied which exceeds, or might, in any possible event, exceed, five years, or
- (b) by sale, gift, or any other contract or agreement, shall be valid to any extent:

Provided that a raiyat may enter into a bhugut-bandha mortgage of his holding or any portion thereof for any period not exceeding seven years.

- (2) No transfer by a raivat of his right in his holding or any portion thereof shall be binding on the landlord unless it is made with his consent in writing.
- (3) No transfer in contravention of sub-section (1) shall be registered, or shall be in any way recognized as valid by any Court, whether in the exercise of civil, criminal, or revenue jurisdiction.
- (4) At any time within three years after the expiration of the period for which a raiyat has, under this section, transferred his right in his holding or any portion thereof, the Deputy Commissioner may, in his discretion, on the application of the raiyat, put the raiyat into possession of such holding or portion in the prescribed manner.
- (5) Nothing in this section shall affect the validity of any transfer (not otherwise invalid) of a raiyat's right in his holding or any portion thereof made bond-fide before the first day of January 1903.

47. No decree or order shall be passed by any Court for Restrictions on sale of the sale of the right of a raiyat in his raiyats' rights under order holding, nor shall any such right be sold of Court. in execution of any decree or order:

Provided as follows:-

- (a) any holding may be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the holding;
- (b) any holding may be sold, under the procedure provided by the Public Demands Recovery Act, 1895,* for the recovery of a loan granted for the benefit of the holding under the Land Improvement Loans Act, 1883,† or the Agriculturists' Loans Act, 1884,‡ or otherwise by the Local Government; and
- (c) nothing in this section shall affect the right to execute a decree for sale of a holding passed, or the terms or conditions of any contract registered, before the first day of January 1903.

Explanation 1.—Where a holding is held under joint landlords, and a decree has been passed for the share of the rent due to one or more, but not all, of them, proviso (a) does not authorize the sale of the holding in execution of such decree.

Explanation II.—Proviso (ι) does not render valid any document which is otherwise illegal or invalid, or authorize a Court to take judicial cognisance of any such document.

- 48. Where any land in a village, other than land known as

 Restrictions on transfer manjhihas or bethkheta is entered in any
 and sale of bhuinbari register prepared and confirmed under the
 tenures.

 Chota Nagpur Tenures Act, 1869, then—
 - (a) section 46 [except sub-section (2) thereof] and section 47 shall apply also to all members of any bhuinhari family holding land in such village, and to the land so held, as if they were raiyats and holdings, respectively, with the substitution of "the first day of October, 1908," for "the first day of January, 1903"; and
 - (b) if any member of any such family transfers the land so held, or any part thereof, by lease, the lessee shall not acquire a right of occupancy therein.
- 49. (1) Notwithstanding anything contained in sections 46,
 Transfer of occupancyholding or bhuinhari tenure
 for certain purposes.

 Transfer of occupancymember of a bhuinhari family who is
 referred to in section 48, may, without the
 consent of the landlord, transfer his holding or tenure or any

^{*} Ben. Act I. of 1895. † Act XIX. of 1883.

[‡] Act XII. of 1884 § Ben. Act II. of 1869.

part thereof for any reasonable and sufficient purpose having 1908. relation to the good of the holding or tenure, or of the tenure or estate in which it is comprised.

- (2) The expression "reasonable and sufficient purpose," as used in sub-section (1), includes,—
 - (a) in the case of a member of a bhuinhari family, but not in the case of an occupancy raiyat, building purposes generally, and,
 - (b) in any case, the use of the land for any charitable, religious, or educational purpose, or for the purposes of manufacture or irrigation, or as building ground for any such purpose, or for access to land used or required for any such purpose.
- (3) Every such transfer must be made by registered deed, and, before the deed is registered and the land transferred, the written consent of the Deputy Commissioner must be obtained to the terms of the deed, and to the transfer.
- (4) Before consenting to any such transfer, the Deputy Commissioner shall satisfy himself that the landlord is adequately compensated for the transfer, and, where only part of a holding or tenure is transferred, may, if he thinks fit, apportion, between the transferee and the original tenant, the rent payable for the holding or tenure.
- 50. (1) Notwithstanding anything contained in sections 46 Acquisition of holding and 47, the Deputy Commissioner may, on the application of the landlord of a by landlord for certain purposes. holding,

and on being satisfied that he is desirous of acquiring the holding or any part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the tenure or estate in which it is comprised, such as the use of the land for any charitable, religious, or educational purpose, or for the purpose of mining, manufacture, or irrigation, or as building ground for any such purpose, or for access to land used or required for any such purpose,

and after such inquiry as the Deputy Commissioner may think necessary,

authorize the acquisition thereof by the landlord upon such conditions as the Deputy Commissioner may think fit, and require the tenant to sell his interest in the holding or part to the landlord upon such terms as may be approved by the Deputy Commissioner, including full compensation to the tenant.

(2) If the landlord tenders to the tenant such sum as the Deputy Commissioner has approved under sub-section (1) as payment for any land, and the tenant refuses to receive the same, the Deputy Commissioner may on the landlord depositing

1908. the said sum with the Deputy Commissioner, give possession of the land to the landlord in the prescribed manner.

51. (1) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for Tenant not liable to transrent which became due after the transfer, feree of landlord's interest and was paid in good faith to the landlord for rent paid to former landlord without notice of whose interest was so transferred, unless the transfer. the transferee has, before the payment,

served notice of the transfer on the tenant.

(2) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants, published in the prescribed manner, shall be a sufficient notice for the purposes of this section.

CHAPTER IX.

GENERAL PROVISIONS AS TO RENT.

Payment of Rent.

- 52. Subject to any registered agreement or local custom or usage to the contrary, a money-rent payable Instalments. by a tenant shall be payable in four equal instalments falling due on the last day of each quarter of the agricultural year.
- 53. Payment of rent by a tenant to his landlord in respect of Methods of payment of the land held or cultivated by the tenant may be made either rent.
 - (a) by tendering the rent at the mal-cutcherry for the receipt of rents or other place where the rent of such land is usually payable, or
 - (b) by remitting the amount of the rent to the landlord or his agent by postal money-order in the prescribed form.
- 54. (1) Every tenant who makes a payment on account of rent or interest due thereon, or both, to his land-Receipts for rent and interest thereon. lord, shall be entitled to obtain forthwith from the landlord or his agent, free of charge, a signed receipt for the same, in the prescribed form.
- (2) The landlord or his agent shall prepare and retain a counterfoil, in the prescribed form, of the receipt.
- (3) If any landlord or his agent, without reasonable cause, fails to grant such a receipt, or to prepare and retain such a counterfoil, then, on proof thereof the Deputy Commissioner may, in a summary proceeding, by order, impose on the landlord a fine which may extend to fifty rupees in respect of each such failure; and may, in his discretion, award to the tenant, by way of compensation, such pertion of the fine as the Deputy Commissioner may think fit.

(4) If, in any suit or other proceeding under this Act or any other law, the Gourt or presiding officer (not being the Deputy Commissioner) finds that any landlord or agent has failed—

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- (a) to deliver to a tenant a receipt in the prescribed form, or
- (b) to prepare and retain a counterfoil, in the prescribed form, of a receipt delivered to a tenant as aforesaid,

such Court or officer shall inform the Deputy Commissioner,

(5) If, in any proceeding instituted under sub-section (3), the Deputy Commissioner discharges any Landlord, and is satisfied that the complaint or allegation of the tenant on which the proceedings were instituted is false or vexatious, the Deputy Commissioner may, in his discretion, by his order of discharge, direct the tenant to pay to the landlord such compensation, not exceeding fifty rupees, as the Deputy Commissioner may think fit.

Deposit of rent in Court 55. In any of the following cases, of Deputy Commissioner. namely,—

- (a) when a tenant tenders or remits money on account of rent, and the landlord or his agent refuses to receive it, or refuses to grant a receipt for it; or
- (b) when a tenant who is bound to pay money on account of rent has reason to believe, owing to a tender having been refused, or a receipt withheld, on a previous occasion, that the landlord or his agent will not be willing to receive it, and to grant him a receipt for it; or
- (c) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf; or
- (d) when the tenant entertains a bona-fide doubt as to who is entitled to receive the rent,

the tenant, whether a suit has been instituted against him or not, may deposit, to the credit of the landlord, the full amount which he considers to be due from him, in the Court of the Deputy Commissioner having jurisdiction to entertain a suit or application for such rent;

and such deposit shall, as far as the tenant and all persons claiming through or under him are concerned, in all respects operate as, and have the full effect of, a payment then made by the tenant of the amount deposited to the credit of the landlord.

56. (1) On the written application of the tenant or his agent,

Procedure on receipt of and on his making a declaration in the
deposit, and payment of prescribed form, the Deputy Commissioner
same. shall receive such deposit, and give a
receipt for the sum deposited.

- (2) The Deputy Commissioner shall, as soon as possible after the receipt of any money so deposited, issue a notice, in the prescribed form, to the landlord to whose credit it has been deposited.
- (3) If any person claiming to be entitled to receive the money in deposit appears and applies for payment thereof to him, the Deputy Commissioner may pay the amount to him if he appears to be entitled to the same, or may, if the Deputy Commissioner thinks fit, retain the amount pending a decision by a Civil Court declaring what person is so entitled.
- (4) Any sum deposited as aforesaid may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor—
 - (a) at the discretion of the Deputy Commissioner, and after serving notice on the landlord and giving him an opportunity to object, and for reasons to be recorded in writing—at any time within a period of three years from the date on which the deposit was made, or,
 - (b) upon the application of the depositor—at any time after the expiration of the said period.
- 57. Whenever any deposit has been received by the Deputy
 Limitation of suit or application for rent due prior and no application for a certificate under section 244 shall be entertained, against the person making the deposit, or his representatives, on account of any rent which accrued due prior to the date of the deposit, unless such suit be instituted, or such application be made, within six months from the date of the service of the notice issued under section 56 in respect of such deposit.

Arrears of Rent.

58. (1) Any instalment of rent which is not paid before What to be deemed arrear sunset on the day when the same is payable of rent; interest on arrears shall be deemed an arrear of rent, and shall be liable to simple interest not exceeding twelve-and-a-half per centum per annum:

Provided that where a tenant pays his rent in full within the agricultural year in which it accrues due, interest shall not exceed six-and-a-quarter per centum on the yearly rent lawfully payable.

- (2) Sub-section (1) shall not apply to dues which are recoverable under the Cess Act, 1880,* as if they were rent.
- 59. When an arrear of rent is adjudged to be due from a Ejectment of tenure-hol. tenure-holder not having a permanent or der and cancellation of transferable interest in the land, the lease lease for arrears. of such tenure-holder shall be liable to be cancelled, and the tenure-holder shall be liable to ejectment:

Provided that no such cancellation or ejectment shall be made otherwise than in execution of a decree or order made under this Act.

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Arrear of rent to be first charge on tenancy.

60. The rent of a tenancy shall be a first charge on the tenancy:

Provided that, if a tenancy is sold in execution of a decree for arrears of rent, the purchaser shall acquire the tenancy free of all liability for rent for any period prior to the date of the sale, and rent due for and such period shall be a first charge on the sale-proceeds of the tenancy.

Commutation of Rent payable in Kind.

- 61. (1) When any tenure-holder or occupancy-raiset pays for Commutation of rert pays a tenure or holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, or partly in any of those ways and partly in money, then the rent so payable shall not be altered, whether by private contract or otherwise, except on the application of either the tenant or his landlord to have the rent commuted to a money-rent.
- (2) Such application may be made to the Deputy Commissioner or a Revenue-officer.
- (3) When any such application is made, the Deputy Commissioner or Revenue officer may, after such inquiry as he thinks fit to make, determine the sum to be paid as money-rent, and may order that the tenant shall, in lieu of paying his rent in kind or otherwise as aforesaid, pay the sum so determined.
- (4) In making the determination, the said officer shall have regard to—
 - (a) the average money-rent payable by tenants for land of a similar description and with similar advantages in the vicinity;
 - (b) the average net value of the rent actually received by the landlord during the preceding ten years, or during any shorter period for which evidence may be available;
 - (c) the special circumstances (if any) which gave rise to the assessment of the rent payable by the tenant at the date of the application;
 - (d) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges; and
 - (e) improvements effected by the landlord or the tenant in respect of the holding;

and shall proceed in the prescribed manner.

- (5) The order shall be in writing, and shall state the grounds on which it is made and the time from which it is to take effect.
- (6) When any such order is made by a Deputy Commissioner, it shall be subject to appeal as provided in Chapter XVI.
- (7) When any such order is made by a Revenue-officer, an appeal shall lie in the prescribed manner, and to the prescribed officer.
 - (8) If the application is opposed, the officer shall consider whether, under all the circumstances of the case, it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

Period for which commuted rents are to remain unaltered.

62. Where the rent of a tenure of holding has been commuted under section

- (1) it shall not be increased for a period of fifteen years except—
 - (a) by order of the Deputy Commissioner, on the ground of a landlord's improvement or an alteration in the area of the tenure or holding, or
 - (b) by order of a Revenue-officer passed under Chapter XII.; and
 - (2) it shall not be reduced for a period of lifteen years except-
 - (i) by order of the Deputy Commissioner, on one of the grounds specified in provisos (i) and (iii) to section 35, or
 - (11) by order of a Revenue-officer passed under Chapter XII.

Penalties for Illegal Exaction of Rent of Prædial Conditions.

Penalty on landlord levy for the time being in force, levies from a ing anything in excess of tenant any money in excess of the rent lawful prædial conditions.

forces compliance by any tenant with any prædial condition to which he is not lawfully entitled, shall, on the application of the tenant, be liable,

under the order of the Deputy Commissioner, or of any officer who may be specially empowered by the Local Government in this behalf,

to pay as penalty such sum as such officer think fit, not exceeding two hundred rupees, or, when double the amount or value of what is so levied or enforced exceeds two hundred rupees, not exceeding double that amount or value.

(2) Such sum shall be awarded to the tenant as compensation.

CHAPTER X.

1908.

MISCELLANEOUS PROVISIONS AS TO LANDLORD AND TENANT.

Act 6

Korkar.

Cases in which consent of landlord is required for conversion of land into korkar.

64. (1) The oral or written consent of the landlord for the conversion of land into korkar shall be required in every case except—

- (a) where the land was, before such conversion, included in the tenancy of a cultivator who has acquired a right of occupancy in it, or
- (b) where, by the custom or usage of the village, tenure, or estate, such consent is not necessary.
- (2) It shall be presumed, unless and until the contrary is proved, that the said consent is not required,—
 - (i) where any land in a village, other than land known as manjhi has or bethkheta, is entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869*—by a member of a bhuinhari family, or,
 - (ii) where any land in a village is entered as a mundari khuntkattidari tenancy, or any tenant of land in a village is entered as a mundari khunt-kattidar, in any record-ofrights finally published under this Act, or under any other law in force before the commencement of this Act—by a member of a mundari khunt-katti family,

who holds land in such village.

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(3) Where the consent of the landlord is required hy this section for the conversion of land into korkar, such consent shall be deemed to have been given if, within two years from the date on which the cultivator commenced such conversion, the landlord has not made an application to the Deputy Commissioner for the ejectment of the cultivator.

Power to eject cultivator or leave him in possession.

65. When any such application is made, the Deputy Commissioner may, after making such inquiry as he thinks fit,—

- (a) order the ejectment of the cultivator from the land so converted into korkar, upon payment by the landlord
 - of such reasonable compensation (if any) as the Deputy Commissioner may direct, or
- (b) direct that the cultivator be left in undisturbed possession of the land.

Ben. Act II. of 1869.

- Prohibition against conversion of certain land into
- 66. Nothing in section 64 shall authorize any cultivator to convert into korkar any orchard or cultivated or homestead land in the direct possession of any other person,
- 67. Every raiyat who cultivates or holds land which he or any member of his family has converted into Right of occupancy in korkar shall have a right of occupancy in such land notwithstanding that he has not cultivated or held the land for a period of twelve years.

Liectment.

Tenant not to be ejected except in execution of decree or order.

68. No tenant shall be ejected from his tenancy or any portion thereof except in execution of a decree, or in execution of an order of the Deputy Commissioner passed under this Act.

Relief against forfeitures.

- 69. (1) Every decree for the ejectment of an occupancy-raiyat or a non-occupancy raiyat on the ground—
- (a) that he has used the land comprised in his holding in a manner which is not authorized by local custom or usage or which materially impairs the value of the land, or renders it unfit for the purposes of the tenancy; or
- (b) that he has broken a condition, consistent with this Act, on breach of which he is, under the terms of a contract between himself and his landlord, liable to ejectment

shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy; and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

- (2) The Court may from time to time, for special reasons, extend a period fixed by it under sub-section (1).
- (3) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.
- 70. A decree or order for ejectment passed under this Act shall take effect from the end of the agri-Decree or order for ejectcultural year in which it is passed, or at such ment when to take effect. earlier date (if any) as the Court may direct.
- Power to replace in possession tenant unlawfully ejected.

71. If any tenant is ejected from his tenancy or any portion thereof in contravention of section 68, he may, within a period of one year (or, if he is an occupancy-raiyat, three years) from the

date of such ejectment, present to the Deputy Commissioner an application praying to be replaced in possession of such tenancy or portion; and the Deputy Commissioner may, if he thinks fit, after making a summary inquiry, replace him in possession in the prescribed manner.

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Surrender and Abandonment.

- 72. (1) A raiyat not bound by a lease or other agreement for a Surrender of land by rai- fixed period may, at the end of any agriyat. cultural year, surrender his holding.
- (2) But, notwithstanding the surrender, the raiyat shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender unless he gives to his landlord, at least four months before he surrenders, notice of his intention to surrender.
- (3) The raiyat may, if he thinks fit, cause the notice to be served through the Court of the Deputy Commissioner within whose jurisdiction the holding or any portion of it is situate.
- (4) When a raivat has surrendered his holding, the landlord may enter on the holding, and either let it to another tenant, or take it into cultivation himself.
- (5) Nothing in this section shall affect any arrangement by which a raiyat and his landlord may arrange for a surrender of the whole or a part of the holding.
- 73. (1) If a raiyat voluntarily abandons the land held or

 Abandonment of land by cultivated by him, without notice to the
 raiyat. landlord, and ceases, either himself, or
 through any other person, to cultivate the land, and to pay his rent
 as it falls due, the landlord may, at any time after the expiration of
 the agricultural year in which the raiyat so abandons and ceases to
 cultivate, enter on the holding, and let it to another tenant, or take
 it into cultivation himself.
- (2) Before a landlord enters under this section, he shall send a notice to the Deputy Commissioner, in the prescribed manner, stating that he has treated the holding as abandoned, and is about to enter on it accordingly; and the Deputy Commissioner shall cause a notice of the fact to be published in the prescribed manner.
- (3) When a landlord enters under this section, the raiyat shall be entitled to apply to the Deputy Commissioner for the recovery of possession of the land at any time not later than the expiration of three years in the case of an occupancy-raiyat, or, in the case of a non-occupancy raiyat, one year from the date of the publication of the notice; and thereupon the Deputy Commissioner may, on being satisfied that the raiyat did not voluntarily abandon his holding, restore him to possession, in the prescribed manner, on such terms (if any) with respect to compensation to persons injured and payment of arrears of rent as to the Deputy Commissioner may seem just.

Continuance of Occupation.

74. When a tenure-holder, village headman, or raiyat has been Effect of lease purporting in occupation of a tenure or holding, and a to admit to occupation after occupation has commenced. lease is executed with a view to the continuance of such occupation, he shall not be deemed to be admitted to occupation by that lease notwithstanding that the lease may purport to admit him to occupation.

Measurements.

- 75. (1) Every landlord of an estate, tenure, or mundari khunt
 Measurement of lands. kattidari tenancy shall have a right to make a general survey or measurement of the lands comprised in such estate, tenure, or tenancy unless restrained from doing so by express engagement with the occupants of the lands.
- (2) If any landlord intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land,
- or if any tenant, having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land,

the landlord may present an application to the Deputy Commissioner.

- (3) On receipt of such application, the Deputy Commissioner shall, after taking such evidence and making such inquiry as he considers necessary, pass an order either allowing or disallowing the measurement, and, if the case so requires, enjoining or excusing the attendance of any tenant.
- (4) If any tenant, after the issue of an order enjoining his attendance, refuses or neglects to attend, any map or other record of the boundaries and measurements of the land, prepared under the driection of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

CHAPTER XI.

CUSTOM AND CONTRACT.

76. Nothing in this Act shall affect any custom, usage, or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions.

Illustrations.

1. A custom or usage whereby a raiyat obtains a right of occupancy as soon as he is admitted to occupation of the tenancy, whether he is a settled raiyat of the village or not, is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

II. A custom or usage by which an under-raiyat can obtain rights similar to those of an occupancy-raiyat is, similarly, not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act, and will not be affected by this Act.

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- III. A custom or usage whereby a raiyat is entitled to make improvements on his tenancy, and to receive compensation therefor on ejectment, is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage accordingly, wherever it exists, will not be affected by this Act.
 - IV. A custom or usage whereby korkar is held-
 - (a) during preparation for cultivation, rent-free, or
 - (b) during or after preparation, at a rate of rent less than the rate payable for ordinary raiyati land in the same village, tenure, or estate,

is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage accordingly, wherever it exists, will not be affected by this Act.

- 77. Except in so far as the Local Government may otherwise
 Saving as to service-ten. direct by notification, nothing in this Act
 ures and holdings. shall affect any incident of a ghatwali or
 other service-tenure or holding.
- 78. When a raiyat holds his homestead otherwise than as part

 of his holding as a raiyat, the incidents of
 his tenancy of the homestead shall be
 regulated by local custom or usage, and, subject to local custom or
 usage, by the provisions of this Act applicable to land held by a
 raiyat.

Restrictions on exclusion of Act by agreement.

- 79. (1) Nothing in any contract between a landlord and a tenant made before or after the commencement of this Act shall—
- (a) bar in perpetuity the acquisition of an occupancy-right in land, or
- (b) take away an occupancy-right in existence at the date of the contract, or
- (c) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.
- (2) Nothing in any contract made between a landlord and a tenant between the 1st January 1903 and the commencement of this Act shall prevent a raiyat from acquiring, in accordance with this Act, an occupancy-right in land not being landlord's privileged lands as defined in section 118.
- (3) Nothing in any contract made between a landlord and a tenant after the commencement of this Act shall—
 - (i) prevent a raiyat from acquiring, in accordance with this Act, an occupancy-right in land, or
 - (ii) take away or limit the right of an occupancy-raiyat to use land as authorized by section 21, or
 - (iii) take away the right of an occupancy-raiyat to transfer his holding or any portion thereof subject to, and in accordance with, the provisions of this Act, or

CHOIA NAGPUR TENANCY ACT.

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- (iv) take away the right of an occupancy-raiyat to apply for a reduction of rent under section 34, or
- (v) affect the provisions of section 58 relating to interest payable on arrears of rent, or
 - (vi) take away the right of a tenant or landlord to apply for a commutation of rent under section 61, or
- (vii) take away the right of a raiyat to surrender his holding in accordance with section 72.

CHAPTER XII.

RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

- 80. (1) The Local Government may make an order directing Power to order survey that a survey be made, and a record-of-and preparation of record-rights be prepared by a Revenue-officer, in respect of the lands in any local area, estate, or tenure or part thereof.
- (2) A notification in the Calcutta Gazette of an order under sub-section (1) shall be conclusive evidence that the order has been duly made.
- (3) The survey shall be made, and the record-of-rights shall be prepared, in the prescribed manner.
- 81. Where an order is made under section 80, the particulars

 Particulars to be recorded.

 to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely:—
 - (a) the name of each tenant or occupant;
 - (b) the class to which each tenant belongs, that is to say, whether he is a tenure-holder, mundari khunt-kattidar, settled raiyat, occupancy-raiyat, non-occupancy-raiyat, raiyat having khunt-katti rights, or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure;
 - (c) the situation and quantity, and one or more of the boundaries, of the land held by each tenant or occupier;
 - (d) the name of each tenant's landlord;
 - (e) the name of each proprietor in the local area or estate;
 - (f) the rent payable at the time the record-of-rights is being prepared;
 - (g) the mode in which that rent has been fixed—whether by contract, by order of a Court, or otherwise;

(h) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases;

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- (i) the rights and obligations of each tenant and landlord in respect of—
 - (i) the use by tenants of water for agricultural purposes, whether obtained from a river, jhil, tank, or well or any other source of supply, and
 - (ii) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land:
- (k) the special conditions and incidents (if any) of the tenancy;
- (1) any easement attaching to the land for which the recordof-rights is being prepared;
- (m) if the land is claimed to be held rent-free—whether or not rent is actually paid, and, if not paid, whether or not the occupant is entitled to hold the land without payment of rent, and, if so entitled, under what authority;
- (n) the right of any person, whether a landlord or tenant or not, to take forest-produce from jungle-land or waste-land, or to graze cattle on any land, in any village in the area to which the record-of-rights applies;
- (o) the right of any resident of the village to reclaim jungle-land or waste-land or to convert land into korkar.
- 82. The Local Government may, for the purpose of settling

 Power to order survey and or averting disputes existing or likely to

 preparation of record-ofrights as to water. arise between landlords, tenants, proprietors, or persons belonging to any of these

 classes, regarding the use or passage of water,

make an order directing that a survey be made and a recordof-rights be prepared by a Revenue-officer in order to ascertain
and record the rights and obligations of each tenant and landlord in any local area, estate, or tenure or part thereof, in respect
of—

- (a) the use by tenants of water for agricultural purposes,
 whether obtained from a river, jhil, tank, or well or any other source of supply; and
- (b) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land.

- 83. (1) When a draft record-of-rights has been prepared Preliminary publication, under this Chapter, the Revenue-officer amendment, and final publish the draft in the prescribed manner and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein, or to any omission therefrom, during the period of publication.
- (2) When such objections have been considered and disposed of in the prescribed manner, the Revenue-officer shall finally frame the record, and shall cause it to be finally published in the prescribed manner; and the publication shall be conclusive evidence that the record has been duly made under this Chapter.
- (3) Separate draft or final records may be published under sub-section (1) or sub-section (2) for different local areas, estates, tenures, or parts thereof.
- 84. (1) In any suit or other proceeding in which a record-ofPresumptions as to final rights prepared and published under this publication and correctness Chapter, or a duly-certified copy thereof or of record-of-rights.

 Chapter, or a duly-certified copy thereof or extract therefrom, is produced, such recordof-rights shall be presumed to have been finally published, unless such publication is expressly denied; and a certificate, signed by the Revenue-officer, or by the Deputy Commissioner of any district in which the local area, estate, or tenure or part thereof to which the record-of-rights relates is wholly or partly situate, stating that the record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication.
- (2) The Local Government may, by notification, declare, with regard to any specified area, that a record-of-rights has been finally published for every village included in that area; and such notification shall be conclusive evidence of such publication.
- (3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved, by evidence, to be incorrect.
- 85. (1) In every area in respect of which a survey is made and a record-of-rights is prepared under section 80, the Revenue-officer may settle fair rents in respect of any land held by a tenant.
- (2) Settlements of rents may be made under sub-section
 (1) either—
 - (i) on the application of any landlord or tenant, or
 - (ii) without such application if the Local Government so directs.
- (3) Such settlements shall ordinarily be made after the final publication of the record-of-rights, and shall not in any case be made on the application of a landlord or tenant after such final

publication unless such application be made within two months from the date of the certificate of such final publication; but may in any case he made before such publication—

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- (a) with the consent of the parties concerned, or
- (b) if the Revenue-officer considers that that course would, in the circumstance, be advisable.
- (4) Whenever a settlement of rents under this section is made after the final publication of the record-of-rights, reasonable notice shall first be given to the parties concerned; and an appeal shall lie, in the prescribed manner and to the prescribed officer, from such settlement.
- (5) For the purpose of settling rents under this section, the Revenue-officer shall have regard to such rules as may be made in this behalf under section 264.

Decision of issues arising during course of settlement of reuts.

- 86. Where, in any proceedings for the settlement of rents under section 85, any of the following issues arises, namely,—
- (a) whether the land is or is not liable to the payment of rent;
- (b) whether the land, although entered in the record of rights as being held rent-free, is liable to the payment of rent;
- (c) whether the relation of landlord and tenant exists;
- (d) whether the land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy;
- (e) whether the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging; or
- (f) whether the special conditions and incidents of the tenancy, or any easement attaching to the land, have not or has not been recorded, or have or has been wrongly recorded,

the Revenue-officer shall try and decide such issue and settle the rent under section 85 accordingly.

- 87. (1) In proceedings under this Chapter, a suit may be insInstitution of suits before tituted before a Revenue-officer, at any time
 Revenue-officer. within three months from the date of the certificate of the final publication of the record-of-rights under subsection (2) of section 83, for the decision of any dispute regarding
 any entry which a Revenue-officer has made in, or any omission
 which he has made from, the record, whether such dispute be—
 - (a) between landlord and tenant, or

- (b) between landlords of the same or of neighbouring estates, or
- (c) between tenant and tenant, or
- (d) as to whether the relationship of landlord and tenant exists, or
- (e) as to whether land held rent-free is properly so held, or
- (f) as to any other matter;

and the Revenue-officer shall hear and decide the dispute:

Provided that the Revenue officer may, subject to such rules as may be made in this behalf under section 264, transfer any particular case or class of cases to a competent Civil Court for trial:

Provided also that, in any suit under this section, the Revenue officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, in proceedings for the settlement of rents under this Chapter, where such issue has been tried and decided, or is already being tried, by a Revenue-officer under section 86 in proceedings instituted after the final publication of the record-of-rights

- (2) An appeal shall lie, in the prescribed manner and to the prescribed officer, from decisions passed under sub-section (1).
- 88. A note of all rents settled under section 85, and of all Entry in record-of-rights decisions under sub-section (1) and decisions on appeal under sub-section (2) of section 87, shall be made in the record-of-rights as finally published under section 83; and such note shall be considered as part of the record.
- 89. (1) any Revenue-officer specially empowered by the Local Revision by Revenue- Government in this behalf may, on application or of his own motion, within twelve months from the making of any order or decision under section 83, section 85, or section 86, revise the same, whether it was made by himself or by any other Revenue-officer, but not so as to affect any order passed under section 87 or any order passed in appeal under section 85, sub-section (4):

Provided that no such order or decision shall be so revised if a suit or an appeal in respect thereof is pending under section 85, sub-section (4), or section 87, or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

- (2) An appeal shall lie, in the prescribed manner and to the prescribed officer, from any order passed under sub-section (1).
- Orrection by Revenue-officer specially empowered by the Local Government in this behalf may, on application or of his own motion, within twelve months from the date of the certificate of

the final publication of the record-of-rights under sub-section (2) of section 83, correct any entry in such record of rights which he is satisfied has been made owing to a bond-fide mistake:

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Provided that no such correction shall be made if a suit or an appeal affecting such entry is pending under section 87, section III, clause (8) or clause (10), section 252, or section 253, or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Stay of certain pr ceed. ings before Deputy Com-missioner or Civil Court when order made for preparation of record of rights.

91. (1) When an order has been made under section 80. or under any law in force before the commencement of this Act, directing the preparation of a record-of-rights, then, notwithstanding anything contained in the foregoing sections of this Chapter, no Deputy Com-

missioner or Civil Court shall, until six months after the final publication of the record of rights, entertain any suit or application (not being an application under the Code of Criminal Procedure, 1898*)-

- (a) in which there is in issue, either directly or indirectly, the existence or non-existence, in the area to which the record-rights applies, of any right referred to in clause (n) of section 81, or
- (b) for the alteration of the rent or the determination of the status of any tenant in such area:

Provided that, if any person considers himself aggrieved by any act of waste or damage committed by any other person in respect of any waste-land or jungle-land during the period within which suits and applications are prohibitted by this section, he may apply to the Deputy Commissioner, who may, after such inquiry as he thinks fit, by written order, prohibit the continuance of such waste or damage.

- (2) The period during which the institution of a suit or the making of an application has been delayed by sub-section (1) shall be excluded in computing the period of limitation provided for such suit or application.
- 92. No suit shall be brought in any Court in respect of any order directing the preparation of a record-Bar to jurisdiction of Courts in matters relating of-rights under this Chapter or in respect to record-of-rights. of the framing, publication, signing, or attestation of such a record or of any part of it.
- Stay of certain proceedings before Deputy Com-missioner or Civil Court when record-of-rights finally published.

98. (1) When a record-of-rights in respect of any land has been prepared under this Chapter, and finally published, no application or suit affecting any such land or any tenant thereof shall, within six months from the date of the certificate of final publication of such

record-of-rights, be made or instituted before the Deputy Commissioner or in any Civil Court for the decision of any of the following issues, namely—

- (a) whether the relation of landlord and tenant exists;
- (b) whether the land is part of a particular estate or tenancy;
- (c) whether there is any special condition or incident of the tenancy, or
- (d) whether any easement attaches to the land.
- (2) If, before the final publication of the record-of-rights in such area, a suit involving the decision of any of the issues mentioned in sub-section (1) has been instituted before the Deputy Commissioner or in a Civil Court, the Revenue-officer shall not entertain any suit under section 87 involving the decision of the same issue.
- (3) Where the making of an application or the institution of a suit has been delayed by sub-section (1), the period of six months therein mentioned shall be excluded in computing the period of limitation provided for such suit or application.
- 94. (1) When the rent of an occupancy-holding is entered in Period for which rents entered in the record-of-rights and finally published under this Chapter or are to remain unaltered. any law in force before the commencement of this Act, then, subject to the provisions of sections 87, 89 and 90,

such rent shall not, except on the ground of a landlord's improvement, be enhanced for a period of—

- (a) fifteen years after the final publication of the record of rights, when such publication was made after the commencement of this Act, or
- (b) seven years after the final publication of the record-ofrighs, when such publication was made before the commencement of this Act;

and such rent shall not be reduced within the said periods, respectively, save on the ground of alteration in the area of the holding, or on the ground that the soil of the holding has, without the fault of the raiyat, become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual;

and no demand for rent, in respect of an occupancy-holding in excess of the amount entered in the said record-of rights shall be enforceable save as provided in this Chapter or in section 32:

Provided that, in any area in respect of which a record-of-rights has been finally published before the commencement of this Act, a Revenue-officer may, on the application of any landlord, made within two years from the commencement of this Act, assess a

tair rent on lands which are included in a holding and are assessable with rent, but for which no rent has been paid or has been entered as payable in the record-of-rights.

1908. Act 6.

(2) The periods of fifteen years and seven years mentioned in clauses (a) and (b) of sub-section (1) shall be counted from the date of the final publication of the record-of-rights.

Expenses of proceedings under this Chapter.

95. (1) When the preparation of a recordof rights has been directed or undertaken under this Chapter,

the expenses incurred in carrying out the provisions of this Chapter in any local area, estate, tenure, or part thereof (including expenses that may be incurred at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair, or restoration of boundary-marks and other survey marks erected for the purpose of carrying out the provisions of this Chapter), or such part of those expenses as the Local Government may direct,

shall be defrayed by the landlords, tenants, and occupants of land in that local area, estate, tenure, or part, in such proportions, and in such instalments (if any), as the Local Government, having regard to all the circumstances, may determine.

- (2) The cost of preparing copies of Survey-maps and extracts from records-of-rights under this Chapter for distribution to landlords and tenants shall be deemed to be part of the expenses incurred in carrying out the provisions of this Chapter.
- (3) The estimated amount of the expenses likely to be incurred for the maintenance, repair, or restoration of boundary-marks for a period not exceeding fifteen years, or such part of such amount as the Local Government may direct, may be recovered in advance in the same manner as if such expenses had been already incurred.
- (4) The portion of the expenses referred to in the foregoing provisions of this section which any person is liable to pay shall be recoverable by the Government as if it were an arrear of landrevenue due in respect of the said local area, estate, tenure, or part.

Explanation. - The word "tenure" in this section includes all revenue-free and rent-free tenures and holdings within a local area, estate, or tenure.

Power of Revenue-officer to give effect to agreement or compromise.

96. In framing a record-of-rights, and in deciding disputes under this Chapter, the Revenue officer shall give effect to any lawful agreement or compromise made or entered into by any landlord and his tenant:

Provided as follows:-

(a) The Revenue-officer shall not give effect to any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act; and

(b) where the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, the Revenue-officer shall not give effect to such agreement or compromise unless and until he is satisfied by evidence that the statements made by the parties thereto are correct.

Illustration.

A a proprietor, agree at B his tenant, shall be recorded as an occupancy-raiyat. This affects the rights of the tenants of B. The Revenue-efficer must, under proviso (b), inquire whether B is a enure-bilder or a raiyat within the meaning of section 5 or section 6. If he finds, c the evidence, that B is a raiyat, he may give effect to the agreement. If he so find that B is a tenure-holder, he must not give effect to the agreement.

- 97. When a rent is settled by a Revenue-officer under this

 Date from which settled Chapter, it shall take effect from the beginrent takes effect. ning of the agricultural year next after the
 date of the decision finally fixing the rent.
- Revision of record.of. rights, and new settlement of rents. under orders of Local Government of this Act, or under any law in force before the commencement of this Act, or any portion of any such record-of-rights, be revised in the prescribed manner, but not so as to affect any rent entered therein.
 - (2) At any time after the expiration of the period of—
 - (a) fifteen years from the date of the certificate of the final publication of a record-of-rights, when such publication was made after the commencement of this Act, or
 - (b) seven years from the date of the certificate of the final publication of a record-of-rights, when such publication was made before the commencement of this Act.

and thereafter, at intervals of periods of fifteen years, the Local Government may, of its own motion or on the application of any landlord or tenant, direct—

- (i) that such record-of-rights or any portion thereof be revised in the prescribed manner, and
- (ii) that a settlement of rents payable by tenants be made under section 85.
- (3) The foregoing sections of this Chapter shall, subject to any rules made in this behalf under section 264, apply to every revision and settlement referred to in sub-section (1) or sub-section (2).
- 99. If the Local Government rejects any application made by Enhancement of rent where a landlord under section 98, sub-section (2), for a revision of record of rights after the expiration of the period of fifteen years or

the period of seven years, as the case may be, referred to in that sub-section, such landlord may apply to the Deputy Commissioner for the enhancement of any rent entered in such record-of-rights as being payable to him.

1908. Act 6.

Validation of directions under section 101 of the Bengal Tenancy given, before the commencement of this Act, for the record of certain rights.

Act, such direction shall be deemed to be as valid as if the said clause had been enacted before such order was made.

CHAPTER XIII.

PRÆDIAL CONDITIONS, AND THE COMMUTATION AND RECORD THEREOF.

Prohibition against new prædial conditions of this Act—

- (a) no tenancy shall be created with any prædial condition attached, other than rent-free tenancies with the sole condition of rendering personal service; and
- (b) no new prædial condition shall be imposed on any tenancy in existence at the time of such commencement.
- Liability of tenant when original conditions of a tenancy cannot be ascertained, the tenant shall not be liable to any prædial conditions other than, or in excess of, those to which, by local custom or usage, he, in common with the general body of the class to which he belongs in the village, tenure, or estate in which the lands of the tenancy are situated, is liable:

Provided that, in any case in which prædial conditions have been complied with by a tenant for a period of five years continuously, any Revenue-officer acting under this Chapter may, when commuting such conditions under this Chapter, presume that the same have been complied with in accordance with local custom or usage, or in accordance with an express or implied contract made at the commencement of the tenancy.

Method of calculating present value of prædial condition.

Method of calculating necessary for a Court to calculate the value of any prædial condition, such value shall be taken to be its average value during the ten years immediately prior to the proceedings, or during any shorter period for which evidence may be available.

Procedure in suit for rent to recover the value of the prædial condiand value of prædial contions appurtenant to a tenancy, an issue ditions.

may be framed as to whether the value of the prædial conditions, when added to the rent payable in respect of the tenancy, exceeds a fair rent; and, if it is found that the resulting amount exceeds a fair rent; the Court shall decree the rent and so much (if any) of the value of the prædial conditions as,

105. (1) When a ny land is held subject to any prædial condi-Voluntary commutation tions, the tenant or the landlord may apply in writing to a Revenue-officer for commutation of such conditions.

together with the rent, will not exceed the sum which would, having regard to the special circumstances of the case, be a fair rent.

- (2) The Revenue-officer shall thereupon cause a notice to be served on the landlord or the tenant, as the case may be, and shall fix a day for considering the application; and, on such day or any day thereafter to which the hearing may be adjourned, shall proceed to inquire into the matter, and to determine the amount which, in his judgment, is fairly and equitably payable in commutation of such conditions.
- (3) In calculating the said amount, the Revenue-officer shall have regard only to the conditions to which the tenant is liable in accordance with local custom or usage, or with any contract made when the tenancy commenced, and to the money-value of such conditions at the time of making such calculation, and shall follow the procedure provided in section 103:

Provided that the amount payable in commutation shall be so fixed that the total annual rent of the land, including such amount as aforesaid, shall not exceed the sum which would, having regard to the special circumstances of the case, be a fair and reasonable rent if the land were not held subject to any prædial conditions.

Power to order record of prædial conditions, with or without commutation.

- 106. (1) The Local Government may, in any case in which it is, in its opinion, expedient so to do, make an order directing either—
- (a) that a record of all prædial conditions to which the lands within any local area or any estate, tenure, or part thereof are subject shall be prepared, and a commutation of such conditions made, by a Revenue-officer; or
- (b) that a record as aforesaid be made by a Revenue-officer without commutation of such conditions as aforesaid.
- (2) A notification in the (alcutta Gasette of an order under this section shall be conclusive evidence that the order has been duly made.

(3) The record of prædial conditions shall be prepared in the prescribed manner.

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- 107. (1) Whenever an order is made under section 106, the
 Revenue-officer shall thereupon proceed to
 prepare a record containing the following
 particulars, namely—
 - (a) the name of each tenant;
 - (b) the name of his landlord;
 - (c) the rent payable for the lands held by each tenant at the time the record is being prepared;
 - (d) the prædial conditions to which all or any of such lands are subject;
 - (e) the amount which, in the judgment of the Revenueofficer, may fairly be deemed payable in commutation
 of such conditions, and
 - (f) any other prescribed particulars.
- (2) In calculating the amount payable in commutation of such conditions, the Revenue-officer shall be guided by the provisions of section 105, sub-section (3).
- 108. (1) When the Revenue-officer has prepared a record under section 107, he shall cause a draft of the same to be locally published in the prescribed manner, and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein, or to any ommission therefrom, during the period of publication.
- (2) When objections have been considered and disposed of in the prescribed manner, the record shall be finally framed and published in the prescribed manner.
- (3) Separate drafts or records may be published under subsection (1) or sub-section (2) for different local areas, estates, tenures, or parts thereof.
- 109. An appeal shall lie, in the prescribed manner, and to the Appeal from orders of prescribed officer, from any order of a Revenue-officer under this Chapter.
- 110. The Commissioner or the Board may direct the revision

 Revision by Commissor of any record prepared under this Chapter, sioner or Board.

 or any portion of such record, at any time within two years from the date of the final publication of the record, but not so as to affect any decision from which an appeal has been preferred under section 109:

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

1908. Act 6. 111. In every local area, estate, tenure, or part thereof, in Procedure where a sur. which a survey is being made and a record-of-rights are of-rights is being prepared under this Act, or under any law in force before the commencement of this Act,

and in which a record of prædial conditions is being prepared, and a commutation thereof is being made, under an order issued under section 106,

sections 107 to 109 shall not apply, and the following provisions shall have effect, namely:—

- (1) The Revenue-officer shall, at the time of attesting the preliminary record, ascertain all the prædial conditions to which, by local custom or usage, or by contract made when the tenancy commenced, each tennnt is liable, and the cash values of such conditions; and shall prepare a statement, in the prescribed form, showing the conditions and values so ascertained.
- (2) In calculating the cash value of such conditions, the Revenue officer shall be guided by the provisions of section 105, sub-section (3).
- (3) The Revenue-officer shall enter in the khatiyan of each tenant the cash value of the prædial conditions (if any) to which such tenant is liable as ascertained under clause (1).
- (4) If any tenant is liable, by local custom or usage, or by contract made when the tenancy commenced, to any prædial conditions other than those to which the general body of tenants are liable, or is not liable to all the prædial conditions to which the general body of tenants are liable, the Revenue-officer shall also specify in the khativan the præial conditions to which such tenant is liable.
- (5) The statement prepared under clause (1), and the entries in the *khatiyan*, shall be published in draft in the same manner, and for the same period, as the record-of-rights.
- (6) Objections as to entries or omissions in the statement or khatiyan relating to prædial conditions may be made under the same conditions as objections to entries in, or omissions from, the record-of-rights, and shall be disposed of in the same manner as such objections.
- (7) After the disposal of objections, the said statement and the entries in the *khatiyan* relating to prædial conditions shall be finally published at the same time and in the same manner as the record-of-rights.

Aot 8.

- (8) At any time within three months from the date of the certificate of the final publication of the record-of-rights, a suit may be instituted before a Revenue-officer for the decision of any dispute regarding any entry in the record relating to prædial conditions or regading any omission to enter any such conditions in the record: and the Revenue-officer shall hear and decide the dispute.
- (9) In all such suits the Revenue-officer shall, subject to any rules made in this behalf under section 264, adopt the procedure laid down in Chapter XVI. for the trial of suits.
- (10) An appeal shall lie, in the prescribed manner and to the prescribed officer, from any decision of a Revenue-officer, under clause (8)
- 112. A note of all decisions under clause (8) and decisions on Note of decisions in ie- appeal under clause (10) of section 111 cord-of-rights. shall be made in the record of-rights as finally published under section 83, and such note shall be considered as part of the record.
- Decision of question as to whether a payment in kind is a prædial condition or a payment of rent in kind.

 Decision of question as section 61, a question arises as to whether a payment in kind is a prædial condition or a payment of rent in kind, the Revenue-officer acting under this Chapter, or the officer acting under section 61; as the case may be, shall after such inquiry as he may consider necessary, decide whether in fact the payment is a prædial codition or not.
- 114. (1) When the commutation of any prædial conditions is Commencement and settled under this Chapter, for any local effect of commutation. area or estate, tenure, or part thereof the settlement shall take effect from the beginning of the agricultural year next after the final publications of the record.
- (2) The amount determined by a Revenue-officer under this Chapter to be payable by a tenant in commutation of prædial conditions shall be deemed to be part of the rent payable by the tenant, and shall be recoverable accordingly.
- 115. When in any case the proceedings under section 105

 Expenses of voluntary have been completed, the Revenue-officer shall apportion the total expenses thereof between the landlord and tenant in such proportion as, having regard to all the circumstances he may deem fit; and the amounts so apportioned shall be recoverable as an arrear of land-revenve.
- Expenses of record and ing out, in any local area or any state, compulsory commutation. tenure, or part thereof, any order made

1908. under section 106, or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords and tenants of land in that local area, state, tenure, or part, in such proportions as the Local Government, having regard to all the circumstances, may determine.

(2) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area, estate, tenure, or part.

Explanation.—The word "tenure" in this section includes all revenue-free and rent-free tenures and holdings within a local area, estate, or tenure.

Saving of right to claim reduction or enhancement of rent.

117. No proceedings under this Chapter shall bar the right of any tenant or landlord to claim a reduction or enhacement of rent under this Act after such proceedings have been completed.

CHAPTER XIV.

RECORD OF LANDLORDS' PRIVILEGED LANDS.

Definition of "landlords' privileged lands."

118. (1) The expression "landlords' privileged lands," as used in this Chapter,

- (a) lands which are cultivated by the landlord himself with his own stock, or by his own servants, or by hired labour, or are held by a tenant on lease for a term of years or year by year, and which are, by custom recognized as privileged land in which occupancyrights cannot accrue, and
- (b) lands which are entered as manjhihas or bethkheta in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869.*
- (2) From such date as the Local Government may, by notification, direct, no lease shall be considered for the purposes of clause (a) of this section unless it be in writing.
- 119. The Local Government may, by notification, direct a Revenue-officer to make a survey and record Power to direct a survey and record of landlords' of all lands in any specified local area which privileged lands. are landlords' privileged lands within the meaning of clause (a) of section 118.
- 120. When a notification has been published under section 110. directing the making of a record, the provi-Application of certain secsions of sections 83, 84, 87, 88, 90, 95, and tions.

96, so far as they may be applicable, shall apply to such record as if it were a record-of-rights referred to in those sections.

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Power to record landlords' land within the meaning of clause (a) of privileged lands on application of landlord or tenact. landlord or of any tenant of the land, and on his depositing the required amount for expenses, a Revenue-officer may ascertain and record whether the land is or is not landlord's privileged land within the meaning of the said clause:

Provided that, when a record of such lands has been or is being made by a Revenue-officer under section 119, no application shall be entertained under this section.

Procedure in inquiries.

122. In any inquiry under this Chapter, a Revenue-officer—

- (1) shall have regard to any evidence that may be available in respect of the following among other matters, namely—
 - (a) who originally reclaimed the lands and brought them under cultivation,
 - (b) whether the lands have at any time been let as landlords' privileged lands or as raiyati lands, and
 - (c) whether the lands have, since their reclamation, been let year by year, or for specific periods, or for indefinite periods; and
- (2) shall proceed in the prescribed manner; and
 - (3) shall receive in evidence any judgment, decree, or order of a Civil Court, or of the Deputy Commissioner, if the same be relevant;

but no such judgment, decree, or order shall be conclusive proof that the lands are or are not landlords' privileged lands.

- 123. In any inquiry by a Revenue-officer under this Chapter, Presumption that land, are or by any Court, as to whether lands are or not landlords' privileged are not landlords' privileged lands, the officer or Court shall presume, until the contrary is proved, that the lands are not landlords' privileged lands.
- 124. Where any land in any village is entered as manjhihas or No land in certain villages bethkheta in any register prepared and control be recorded as landlords' firmed under the Chota Nagpur Tenures Act, 1869,* a Revenue officer acting under this Chapter shall not record any other lands in that village as being landlords' privileged lands.

1908, 4 (t 6. Exclusion of unrecorded prepared under section 119 for any area, no lands from category of land other lands in that area shall be deemed to be landlords' privileged lands.

126. An appeal shall lie, in the prescribed manner, and to the prescribed officer, from decisions and orders of a Revenue-officer under this Chapter.

CHAPTER XV.

RECORD-OF-MIGHTS AND OBLIGATIONS OF RAIVATS HAVING KHUNT-KATTI RIGHTS, VILLAGE-HEADMEN, AND OTHER CLASSES OF TENANTS.

Record of rights and obligations of raiyats having khunt kattı rights, villageheadmen, and other classes of tenants.

127. (1) The Local Government may make an order directing that a record be prepared by a Revenue-officer of the rights and obligations in any specified local area of—

- (a) raiyats having khunt-katti rights;
- (b) headmen of villages or groups of villages whether known as mankis or pradhans or manjhis or otherwise; or
- (c) any other class of tenants;

and that a settlement of fair rents to be paid by such persons or any of them be made.

Explanation.—The word "rights," as used in this sub-section, includes the right of a village headman to hold his office as well as his right to hold land.

- (2) A notification in the Calcutta Gazette of an order under this section shall be conclusive evidence that the order has been duly made.
- 128. (1) When a notification has been published under section

 Application of certain sections.

 127, directing the preparation of a record, the provisions of section 81, section 83, section 84, sub-sections (1) and (2), and sections 89 to 96, so far as they may be applicable, shall apply as if such record were referred to in those sections
- (2) When any such notification directs that a settlement of fair rents be made, the provisions of section 85, sub-sections (3), (4) and (5,, section 86, section 89, and sections 95 to 97, so far as they may be applicable, shall apply to such settlement as if it were a settlement referred to in those sections.
- 129. At the time of the final publication of a record prepared

 Notice of entries to interested persons.

 that officer shall cause a copy of the entries
 therein to be served, in the prescribed manner, on all persons
 interested in such entries, so far as such persons can be ascertained.

130. (1) Where there is a dispute regarding the correctness

Suits to decide dispute of any entry made in a record prepared under this Chapter, or regarding any incorrect omission therefrom, a suit may be instituted before a Revenue-officer, at any time within three months from the date of the certificate of the final publication of the record:

1908. Act 6.

Provided that, in any suit under this section, the Revenueofficer shall not try any issue which has been, or is already,
directly and substantially in issue between the same parties, or
between parties under whom they or any of them claim, in
proceedings for the settlement of rents, where such issue has
been tried and decided, or is already being tried, by a Revenueofficer acting under section 86 in proceedings instituted after the
final publication of the record.

- (2) In all suits under this section, the Revenue-officer shall, subject to any rules made in this behalf under section 264, adopt the procedure laid down in Chapter XVI. for the trial of suits before the Deputy Commissioner.
- (3) An appeal shall he, in the prescribed manner, and to the prescribed officer, from the decision of the Revenue-officer in such suits.
- 131. A note of all decisions under sub-section (1) of section

 Note of final decisions in 130, and of all decisions on appeal under record sub-section (3) of that section, shall be made in the record prepared under section 127, and such note shall be considered as part of the record.
- 132. When a record has been finally published under sec-Evidential value of tion 128, or amended under section 131, entries. the entries made therein shall be conclusive evidence of the rights and obligations of the tenants to which such entries relate, and of all the particulars recorded in such entries.
- Revenue-officer to have regard to origin and nature of tenancy and status of tenant.

 Revenue-officer to have and obligations of tenants, the Revenue-officer shall have regard to the origin and nature of each tenancy, and to the real status of the tenant, notwithstanding that the tenant may have been described in any document as a thikadar or temporary lease holder, or in any other similar terms.
- 134. When a record of the rights and obligations of raiyats

 Exclusion of unrecorded having khunt-katti rights has been prepared under this Chapter for any local area, no lands in such area, which are not entered in such record, shall be recognized as lands in respect of which khunt-katti rights can be acquired.

CHAPTER XVI.

JUDICIAL PROCEDURE IN MATTERS COGNIZABLE BY THE DEPUTY
COMMISSIONER.

135. The Deputy Commissioner may hold a Court, for hearing Place for holding Deputy and determining suits and applications Commissioner's Court. under this Act, in any place within the local limits of his jurisdiction:

Provided that every hearing and decision shall be in open Court, and that the parties to the suit or application or their agents shall have had due notice to attend at such place.

- 136. Suits and applications before the Deputy Commissioner
 Office for instituting suits and making applications.

 under this Act shall respectively be instituted and made—
 - (a) in the Revenue-office of the district; or
 - (b) when the cause of action has arisen within the local limits of the jurisdiction of a Deputy Collector who is empowered to receive such suits or applications, then in the office of such Deputy Collector; or
 - (c) in the office of the Revenue-officer having jurisdiction to entertain the same.
- 137. The Deputy Commissioner may withdraw any suit from any Deputy Collector or Revenue-officer who is exercising powers of the Deputy Commissioner under this Act, and may try it himself, or transfer it to any Deputy Collector.
- 138. (1) When any suit is instituted or application made in Jurisdiction where land is respect of any land comprised in a tenure situated in more than one or holding, and such land is situated in more than one district or sub-division, the district or sub-division in which the greater part of such land is situated shall be deemed to be the district or sub-division in which the cause of action has arisen;
- and, if any question be raised respecting the district or subdivision in which the greater part of the land is situated, the Board or (if the land is situated in one district) the Deputy Commissioner shall decide the question.
- (2) Except as provided in sub-section (1), no Deputy Commissioner shall exercise any jurisdiction under this Act in respect of any land situated beyond the local limits of his jurisdiction, even if such land forms part of an estate the revenue of which is paid into the treasury of his district.

139. The following suits and applications shall be cognizable Certain suits and applicable to the Deputy Commissioner, and shall be instituted and tried or heard under the provisions of this Act, and shall not be cognizable in any other Court, except as otherwise provided in this Act, namely—

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- (1) all suits for the delivery of leases or counterpart engagements;
- (2) all suits and applications for the determination of the rent payable by any tenant for agricultural land;
- (3) all suits for arrears of rent due on account of-
 - (a) agricultural land, whether subject to the payme it of rent, or only to the payment of dues which are recoverable as if they were rent, or
 - (b) rights of pasturage, rights to take forest-produce, rights of fishery, or other similar rights;
- (4) all suits under this Act to eject any tenant of agricultural land, or to cancel any lease of agricultural land;
- (5) all applications to recover the occupancy or possession of any land from which a tenant has been unlawfully ejected by the landlord or any person claiming under or through the landlord;
- (6) all suits by or against headmen of villages or groups of villages (whether known as mankis or pradhans or manjhis or otherwise) for a declaration of title in, or for possession of, their office or agricultural land, whether based or not on an allegation of the existence or non-existence of the relationship of landlord and tenant;
- (7) al suits by landlords and others in receipt of the rent of land, against any agents employed by them in the management of land or the collection of rents or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession; and
- (8) all suits and applications in respect of which jurisdiction is conferred by this Act on the Deputy Commissioner.
- 140. Subject to such rules (if any) as may be made in this beCollective suits or aphalf under section 264, a suit may be instituted before, or an application may be made to, the Deputy Commissioner collectively by or against any number of tenants holding land in the same village; and an allegation that such tenants are wrongly joined shall be no ground for dismissing a suit, or refusing to hear an application;

but no order shall be passed in any such collective suit or on any such collective application unless the officer making the same is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them;

and if, at any time, it appears to the Deputy Commissioner that the question between any two of the parties of whom one is so joined with others cannot conveniently be jointly tried or heard, the Deputy Commissioner may order a separate trial or hearing.

- 141. Every order or decree passed in any case which is

 Order or decree in col.
 lective suit or on collective application to specify how far it affects each tenant.

 Tried or heard jointly under section 140 shall specify the extent to which each of the tenants named in the order or decree shall be affected thereby.
- 142. (1) Notwithstanding anything contained in section 257,
 Suit by co-sharer landlord a co-sharer landlord may institute a suit to
 recover from a tenant—
 - (a) his share of the rent, when such share is collected separately, or
 - (b) the whole of the rent due to the plaintiff and his cosharers when all or any of his co-sharers who refuse to join in the suit are made defendants therein.
- (2) When, in a suit instituted under clause (b) of sub section (1), the plaintiff is unable to ascertain what rent is due for the whole tenure or holding, or whether the rent due to the other co-sharer landlords has been paid or not, owing to the refusal or neglect of the tenant or the said landlords to turnish him with correct information on these points or either of them,

the Deputy Commissioner shall determine -

- (1) what sum (if any) is due to the plaintiff for rent, interest thereon, and costs, and
- (ii) what sums (if any) are due to the said landlords, respectively, on account of their share of the rent and interest thereon, for the period in respect of which the suit is brought; and shall decree the suit accordingly.
- (3) Notwithstanding anything contained in Explanation I to section 47 or in section 196, a decree awarding to a plaintiff a sum referred to in clause, (i) of sub-section (2) shall, as regards the remedies for enforcing the same, be as effectual as a decree obtained by a sole landlord or an entire body of landlords in a suit brought for the rent due to all the co-sharers.
- (4) When the sums due from a tenant to any co-sharer landlord are determined under clause (ii) of sub-section (2), in respect of any period, then no further suit shall lie against such tenant for rent alleged to be due to such landlord in respect of that period.

Institution of suits by presentation of statement of claim.

143. Suits before the Deputy Commissioner under this Act shall be instituted by presenting a statement of claim showing—

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- (a) the name, description, and place of abode of the plaintiff;
- (b) the name, description, and place of abode of the defendant, so far as they can be ascertained;
- (c) the substance of the claim, and
- (d) the date of the cause of action.
- Additional particulars required in statement of claim in certain suits and in certain applications.

 any tenure or holding, or for the recovery of occupancy or possession of any tenure or holding, the statement of claim or application shall contain, in addition to the particulars required by section 143,—
 - (a) a specification of the situation and designation of the land held by the tenant, and
 - (b) a specification of the extent and boundaries of such land, or (if the plaintiff is unable to specify the extent or boundaries) a description sufficient for the identification of the land.
- (2) In all suits and applications referred to in sub-section (1) and in all other suits and applications before the Deputy Commissioner under this Act relating to the rent of land, or to any right or easement arising out of land,

if a survey has been made and a record-of-rights has been finally published under this Act, or under any law in force before the commencement of this Act, in respect of the land to which the suit or application relates,

the statement of claim or application shall further contain the following particulars, namely—

- (i) a list of the survey plots comprised in the tenancy,
- (ii) a statement of the rental of the tenancy according to the record-of-rights, and
- (iii) a copy of all entries in the record-of-rights in regard to the subject-matter of the suit or application,

unless the Deputy Commissioner is satisfied, for reasons to be recorded in writing, that it is not necessary that such particulars or any of them should be furnished, or that the plaintiff was prevented by any sufficient cause from furnishing such particulars or any of them:

Provided that, in all cases in which the Deputy Commissioner admits a statement of claim or application which does not contain the said particulars, he may direct the supply, without payment of

fee, of a verified or certified copy of, or extract from, the recordof-rights relating to the tenancy and the question in dispute in the suit or application.

- (3) Where, since the record-of-rights was prepared and finally published, an alteration has been made in the area of the tenancy, the statement of claim must further show how the amount of the rent claimed in the suit has been calculated.
- Substitution of copies or extracts for original documents admitted in evidence. Commissioner in any suit or proceeding under this Act, and have been admitted in evidence in the suit or proceeding, or in any inquiry pending before the Deputy Commissioner,

copies of, or extracts from, such documents, certified by a duly-authorized officer of the Court of the Deputy Commissioner to be true copies or extracts, may, with the permission of the Deputy Commissioner, be substituted on the record for the originals, which may then be returned to the landlord;

and thereafter copies or extracts, so certified, may be admitted in evidence in any other suit or proceeding instituted before the same or any other Deputy Commissioner under this Act, unless the Deputy Commissioner before whom they are produced sees fit to require the production of the originals.

146. The statement of claim shall be presented by the plaintiff
Statement of claim by or by an agent of the plaintiff who is
whom to be presented.

acquainted with the facts of the case.

Signature and verification of statement of claim.

- 147. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the following form:—
- "I, A B, do declare that the above statement is true to the best of my knowledge, information, and belief."
- 148. (1) If the plaintiff relies in support of his claim on any Production of documents document in his possession, he must proby plaintiff.

 duce such document before the Deputy Commissioner at the time of presenting his statement of claim.
- (2) If such document be not so produced, it shall not afterwards be admitted unless the Deputy Commissioner, for sufficient reasons to be recorded in writing, thinks fit to admit it.
 - 149. If the plaintiff requires the production of any document production of documents in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver a description of the document to the Deputy Commissioner in order that the defendant may be directed to produce the document.

Return or amendment of particulars required by section 143, or by statement of claim. sections 143 and 144, as the case may be, or is not subscribed and verified as required by section 147, the Deputy Commissioner may return the statement to the plaintiff, or may at his discretion allow it to be amended.

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- 151. If the statement of claim is in proper form, the Deputy

 Issue of summons to defendant.

 Commissioner shall direct the issue of a summons to the defendant in the prescribed form.
- 152. If the plaintiff requires the personal attendance of the Attendance of defendant defendant, and satisfies the Deputy Commispersonally or by agent. sioner that such personal attendance is necessary, or if the Deputy Commissioner, of his own accord, requires such personal attendance, the summons shall contain an order for the defendant to appear. personally on a day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent who is acquainted with the facts of the case.
- 153. The said summons shall order the defendant to produce
 Production of documents any document which he has in his possession
 and witnesses. and of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support
 of his defence;

and shall also enjoin the defendant to bring his witnesses with him if they are willing to attend without issue of process.

- 154. If the amount of the cost of serving the summons be not Deposit of cost of serving deposited in the prescribed manner, the claim shall be rejected; but, in such case, the plaintiff may present another statement of claim at any time within the period provided by this Act for the limitation of suits.
- Procedure when neither of the defendant, or on any subsequent day party appears. to which the hearing of the case may be postponed prior to the framing of issues as provided in section 167, neither of the parties appears in person or by agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit unless precluded by the provisions for the limitation of suits contained in this Act.
- Procedure when only the Commissioner shall dismiss the suit unless the defendant appears. the defendant admits the claim or part thereof, in which case the Deputy Commissioner shall pass a decree against the defendant upon such admission, without costs, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder:

1998 Act 6 Provided that such decree, if there be more than one defendant, shalt be only against the defendant who makes the admission.

- 157. If, on such day, only the plaintiff appears, the Deputy Procedure when only the Commissioner, upon proof that the summons plaintiff appears. has been duly served, shall proceed to examine the plaintiff or his agent, and, after considering the allegations of the plaintiff and any documentary or oral evidence adduced by him, may either dismiss the case, or postpone the hearing of it to a future day for the attendance of any witness whom the plaintiff may wish to call, or decree the suit ex-parte against the defendant.
- 158. If the defendant relies on any document in support of Production of documents his defence, he shall produce it before the by defendant.

 Deputy Commissioner at the first hearing of the suit, and, if such document is not so produced, it shall not afterwards be admitted unless the Deputy Commissioner, for sufficient reasons to be recorded in writing, thinks fit to admit it.
- 159. If the defendant appears on any subsequent day to which

 Hearing of defendant on the hearing of the suit may be postponed day to which case is postunder section 157, the Deputy Commissioner may, upon such conditions (if any) as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.
- 160. A female plaintiff or defendant shall not be required to

 Exemption of women attend in person if of a rank or class which, from personal attendance. according to the customs and manners of the country, would render it improper for her to appear in public.
- 161. (1) Any party to a suit before the Deputy Commissioner under this Act may employ an agent to conduct the case on his behalf; but the appointment of an agent shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or by any order of the Deputy Commissioner.
- (2) Processes served on any such agent shall be as effectual for all purposes in relation to the suit as if they had been served on the party in person; and all the provisions of this Act relating to the service of processes on a party to the suit shall be applicable to the service of processes on such agent.
- 162. The Deputy Commissioner may in any case grant time

 Power to grant time or to the plaintiff or defendant to proceed in adjourn hearing.

 the prosecution or defence of a suit, and may also from time to time, in order to secure further evidence, or for other sufficient reason to be recorded by him, adjourn the hearing or further hearing of any case in such manner as he may think fit.

Examination and crossexamination of parties or their agents, and of witnesses; written statement by defendant.

163. (1) When both parties appear in person on the day 1908. named in the summons, or upon any subsequent day to which the hearing of the case Act 6. may be adjourned under section 162, the Deputy Commissioner shall proceed to examine them, and either party or his agent

may cross-examine the other.

- (2) If either of the parties is not bound to attend personally, any agent by whom he appears shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.
- (3) At his first appearance, or at any time before the issues are framed, the defendant may, with the leave of the Deputy Commissioner, file a written statement of his defence.
- (4) Such statement shall be verified in the manner provided in section 147.
- (5) If either of the parties produces a witness on the day aforesaid, the Deputy Commissioner may take the evidence of such witness.
- 164. (1) The examination of the parties or their agents shall be conducted according to the law for the Conduct and record of examination. time being in force for the examination of witnesses.
- (2) The depositions of parties, agents, and witnesses, shall be recorded in English, or, if the Deputy Commissioner is not sufficiently acquainted with English, then in the vernacular language of the Deputy Commissioner.
- 165. If the agent of either party is unable to answer any material question relating to the case, Power to direct attendwhich the Deputy Commissioner is of opinion ance of party whose agent cannot answer material that the party whom he represents ought to question. answer, and is likely to be able to answer if interrogated in person, the Deputy Commissioner may postpone the hearing of the case to a future day, and may direct that such party shall attend in person on such day:

and, if such party fails to appear in person on the day appointed, the Deputy Commissioner may decide the suit as in case of default, or make such other order as he may deem proper in the circumstances of the case.

166. If, after the examination required by section 163, and after the examination of any witness who Decree when to be made. may attend to give evidence on behalf of either of the parties and after a consideration of the documentary evidence adduced, a decree can properly be made without taking further evidence, the Deputy Commissioner shall make a decree accordingly.

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167. If it appears that the parties are at issue on any question

Power to postpone trial upon which it is necessary to hear further to take further evidence. evidence, the Deputy Commissioner shall frame issues, and shall fix a day for the examination of witnesses and the final hearing of the suit, and the trial shall take place on that day unless there be sufficient reason for adjourning it, which reason shall be recorded by the Deputy Commissioner.

- 168. The parties shall produce their witnesses on the day of Pzoduction of witnesses. the trial; and, if either party requires assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Deputy Commissioner in sufficient time before such day to enable the witness to be summoned and to attend on that day; and, if the application be made in sufficient time as aforesaid, the Deputy Commissioner shall issue a summons requiring such witness to attend.
- 169. (1) If, on the day fixed for the final hearing of the suit,

 Procedure when neither neither of the parties appears, the case
 party appears on day fixed shall be struck off under the conditions profor final hearing of suit.
- (2) If, on such day, only one of the parties appears, the suit may be tried and determined, in the absence of the other party, upon such proof as may then be before the Court.

Judgment.

170. (1) The Deputy Commissioner shall pronounce judgment in open Court.

(2) The judgment shall be written in English, and shall contain the reasons for the decision, and shall be dated and signed by the Deputy Commissioner at the time when it is pronounced:

Provided that any judgment may be written in the vernacular if the Deputy Commissioner is not sufficiently acquainted with English.

Local inquiries.

171. (1) The Deputy Commissioner may, at any stage of a suit or other proceeding before him under this Act,—

- (a) cause a local inquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of the Government with the consent of the authority to whom such officer is subordinate, or by any other person whom the Deputy Commissioner may deem fit; or
- (b) himself proceed to the spot and make such local inquiry in person.
- (2) The provisions of the law for the time being in force relating to local inquiries by Commissioners under orders of Civil Courts shall apply to any local inquiry made under clause (2) of sub-second

tion (1), and, so far as they are applicable, also to inquiries made 1908 under clause (b) of that sub-section.

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- (3) Where the Deputy Commissioner makes a local inquiry in person, he shall forthwith record on the proceedings any relevant facts which he has observed in the course of the inquiry; and such record shall be received as evidence in the suit or other proceeding aforesaid.
- 172. (1) The defendant in any suit before the Deputy Commissioner under this Act may, if he has duly Payment into Court by defendant after tender to tendered the same to the plaintiff before the plaintiff. institution of the suit, pay into Court such sum of money as he may consider to be due to the plaintiff without paying in any costs incurred by the plaintiff up to the time of such payment; and such sum shall immediately be paid out of Court to the plaintiff.
- (2) If, after such payment, the plaintiff elects to proceed with the suit, and ultimately obtains a decree for no more than was paid into Court, he may be charged with all costs of the suit incurred by the defendant; but, if the plaintiff ultimately obtains a decree for more than was paid into Court, the defendant may be charged with all costs of the suit.
- 173. (1) The defendant in any suit before the Deputy Commissioner under this Act may, without having Payment into Court by tendered the same to the plaintiff before the defendant without institution of the suit, pay into Court such tender to plaintiff. sum of money as he may consider to be due to the plaintiff, together with the costs (to be fixed by the Deputy Commissioner, if necessary, as upon a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment; and such sum shall immediately be paid out of Court to the plaintiff.
- (2) If, after such payment, the plaintiff elects to proceed with the suit, and ultimately obtains a decree for no more than was paid into Court, he may be charged with all costs of the suit incurred by the defendant subsequently to such payment; but, if the plaintiff ultimately obtains a decree for more than was paid into Court, the defendant may be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit thereout for the amount of costs paid into Court by him in the first instance.
- 174. From the date on which any sum is paid into Court by the defendant under section 172 or section Prohibition of interest on sums paid into Court. 173, no interest shall be allowed to the plaintiff on such sum, whether it be in full satisfaction of his claim, or falls short thereof.

175. (1) In any suit for rent under this Act, if it appears to

Power to award damages the Deputy Commissioner that the defendto plaintiff in rent-suit. ant has, without reasonable or probable
cause, neglected or refused to pay the amount due from him,

and that he has not, before the institution of the suit, tendered such amount to the plaintiff or his agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount in the Court of the Deputy Commissioner under section 55, before the institution of the suit,

the Deputy Commissioner may, for reasons to be recorded in writing, award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as the Court may think fit, unless interest due under section 58 is decreed.

- (2) Any damages so awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest, from the date of decree until payment thereof, at such rate per centum as the Deputy Commissioner deems reasonable.
- 176. In any suit for rent under this Act, if it appears to the

 Power to award compensation to defendant in rentsuit.

 Deputy Commissioner that the plaintiff has instituted the suit against the defendant without reasonable or probable cause,

or that the defendant, before the institution of the suit, duly deposited in the Court of the Deputy Commissioner, under section 55, the full amount which the Deputy Commissioner finds to have been due to the plaintiff at the date of such deposit,

the Deputy Commissioner may, for reasons to be recorded in writing, award to the defendant, by way of compensation, such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as the Deputy Commissioner may think fit.

Procedure where third this Act between a landlord and a tenant, party claims right to receive the right to receive the rent of the land or tenure cultivated or held by the tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person or a person through whom he claims has actually and in good faith received and enjoyed such rent before and up to the time of the institution of the suit,

such third person shall be made a party to the suit, and the question of the actual payment of the rent to such third person in good faith shall be inquired into, and the suit shall be decided according to the result of such inquiry:

Provided that such decision shall not affect the right of any party, who may have a legal title to such rent, to establish such

title by suit in a Civil Court if instituted within one year from 1908. the date of the decision.

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- 178. (1) Any landlord desiring to eject a non-occupancyraiyat on the ground that he has failed to Suit for ejectment of pay an arrear rent, or to cancel the lease non-occupancy raiyat, or of any tenant on account of the non-paycancelment of lease of any tenant, for arrears of rent. ment of arrears of rent, may sue for such ejectment or cancelment and for the recovery of the arrears in the same suit, or may, in a suit for such ejectment or cancelment, adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrears
- (2) In all cases of suits for the ejectment of a non-occupancyraiyat for non-payment of arrears of rent, or for the cancelment of a lease for non-payment of arrears of rent, the decree shall specify the amount of the arrear; and if such amount, together with interest and costs of suit, be paid into Court within thirty days from the date of the final decree, the decree shall not be executed.
- (3) The Deputy Commissioner may, for special reasons to be recorded in writing, extend the period of thirty days mentioned in sub-section (2).
- 179. If a decree is given for the grant of a lease to a raiyat, and the landlord fails, for a period of three Power of Deputy Contmissioner to grant lease to months after the date of the decree, to grant raiyat in default of landlord. such lease, the Deputy Commissioner may grant a lease, in conformity with the terms of the decree, under his own hand and seal; and such lease shall have the same force and effect as if granted by the landlord.
- 180. If a decree is given for the delivery of a counterpart engagement by a tenant to a landlord, and the Procedure where tenant tenant fails, for a period of three months fails to deliver counterpart engagement to landlord. after the date of the decree, to deliver such counterpart, the decree shall be evidence of the amount of rent claimable from such tenant, and a copy of the decree under the hand and seal of the Deputy Commissioner shall have the same force and effect as a counterpart engagement delivered by the tenant to the landlord.

Execution of Decrees and Orders of the Deputy Commissioner.

- 181. No process of execution of any description whatsoever shall be issued on any decree or order passed Limitation of time for by a Deputy Commissioner under this Act application for execution. except upon an application made within three years from-
 - (a) the date on which the decree or order is signed, or
 - (b) where there has been an appeal, the date of the final decree or order of the Appellate Court, or

- (c) where there has been a review of judgment, the date of the decision passed on the review.
- 182. A decree or order passed by a Deputy Commissioner

 Decrees and orders by under this Act may be executed either by his
 what Court to be executed. own Court, or by any other prescribed Court.
- 183. Every application for the execution of a decree or order

 Form of application for passed by a Deputy Commissioner under this

 execution. Act shall be in writing, shall be made in the
 prescribed form, and shall be verified by the applicant or his agent
 in the form provided in section 147.
- 184. Process of execution may be issued against either the Issue of process of exeperson or the property of a judgment-debtor, cution.
 but shall not be issued simultaneously against both person and property.

Form of warrant of execution against person or moveable property.

- 185. Every warrant of execution against the person or moveable property of a judgment-debtor shall be in the prescribed form.
- 186. The following particulars shall be exempt from attach-Exemptions from attachment and sale in execution of any decree or order passed by a Deputy Commissioner under this Act, namely—
 - (a) the necessary wearing apparel and bedding of the judgment-debtor, his wife, and children;
 - (b) tools and implements of husbandry, and such cattle and seed grain as may, in the opinion of the Deputy Commissioner, be necessary to enable the judgment-debtor to earn his livelihood as an agriculturist;
 - (c) the materials of houses and other buildings belonging to, and occupied by, agriculturists;
 - (d) books of account;
 - (e) any right of personal service;
 - (f) stipends and gratuities allowed to military and civil pensioners of the Government, and political pensions;
 - (g) the wages of labourers and domestic servants;
 - (h) a right to future maintenance:

Provided that nothing in this section shall be deemed to exempt the materials of houses and other buildings from attachment or sale in execution of decrees for rent.

Explanation.—The particulars mentioned in clauses (f) and (g) are exempt from attachment or sale, whether before or after they are actually payable.

187. (1) Any moveable property required to be seized under a Indication of moveable warrant of execution shall, if practicable, be property to be saized. described in a list to be furnished by th

judgment-creditor; but, if the creditor is unable to furnish such list, he may apply for a general seizure of the debtor's effects to the amount of the judgment and costs.

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- (2) In either case, the property to be seized shall be pointed out by the creditor or his agent to the officer entrusted with the execution of the warrant.
- 188. Every warrant of execution shall bear the date of the day

 Duration of warrant of on which it is signed by the Deputy Com
 execution. missioner, and shall continue in force for
 such period as the Deputy Commissioner may direct, not being
 more than sixty days from such date.
- 189. Second and successive warrants of execution may be Second and successive issued, by order of the Deputy Commiswarrants of execution sioner, on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.
- Notice when to be given decree or order without previous notice to before issue of warrant of the party against whom execution is applied for, if when application for the issue of the warrant is made, a period of more than one year has elapsed from the date of the decree or order, or from the date of the last previous application for execution.
- (2) A warrant of execution shall not be issued against the heir or other representative of a deceased party without previous notice to such representative to appear and be heard.
- 191. (1) If a warrant is issued against the person of a judgProcedure when judgmentment-debtor, the officer charged with the
 execution of the warrant shall bring him with
 all convenient speed before the Deputy Commissioner.
- (2) If the decree in execution of which the judgment-debtor was arrested is a decree for money, and if he does not immediately deposit in Court the full amount specified in the warrant or make arrangements, satisfactory to the judgment-creditor, for the payment of the same, or satisfy the Deputy Commissioner that he has no present means of paying the same,

the Deputy Commissioner shall send him to the civil jail, there to remain for such time as may be directed by warrant addressed to the keeper of the jail, unless, in the meantime, he pays the said amount:

Provided that no judgment-debtor shall be imprisoned in execution of a decree under this Act for a longer period than six months or (if the decree is for the payment of a sum of money not exceeding fifty rupees) six weeks.

(3) If the decree in execution of which the judgment-debtor was arrested is a decree for the delivery of papers or accounts, and

if the papers or accounts are not immediately delivered by him to the Deputy Commissioner,

the Deputy Commissioner may commit him to the civil jail, there to remain for such time, not exceeding six months, as the Deputy Commissioner may direct, unless, in the meantime, he delivers the papers or accounts according to the terms of the decree.

- 192. (1) When any judgment-debtor has been discharged from Further proceedings after the civil jail, he shall not be imprisoned a discharge from jail second time under the same decree or order
- (2) If the amount due under such decree or order does not exceed fifty rupees, the Deputy Commissioner may declare such discharged person to be absolved from liability thereunder.
- (3) In other cases, the discharge shall no extinguish the liability of the discharged person under such decree or order, or exempt property belonging to him from attachment in execution thereof.
- 193. (1) Any person who applies for a warrant of execution

 Diet-money for subsisagainst the person of a judgment-debtor shall
 tence of prisoners.
 deposit in Court, at the time of the issue of
 the warrant, diet-money for thirty days, at such rate as the Deputy
 Commissioner may direct, for the subsistence of the prisoner.
- (2) The said person shall also pay diet-money, at the same rate, before the commencement of each succeeding month of the imprisonment; and, if he fails to make any such payment, the prisoner shall be discharged.
- (3) All diet-mony spent in providing subsistence for any prisoner shall be added to the costs in the suit and any diet-money not so spent shall be returned to the person who paid it.
- Execution of decree or order is for the ejectment of any cultivator from land occupied by him, or for der for ejectment or reinter the reinstatement of any cultivator in the statement of cultivator.

 ejected, the decree or order shall be executed by giving the possession or occupancy of the land to the person entitled by the decree or order to such possession or occupancy.
- (2) If any opposition to the execution of the order for giving such possession or occupancy is made by the party against whom the order is made, the Deputy Commissioner shall, in the exercise of his powers as a Magistrate, give effect to the order.
- Execution of decree or order is for the cancelment of any lease or the ejectment of any tenant (not being an actual cultivator), or for the reinstatement of tenant not being an actual cultivator) in the possession of a tenancy trom which he has been ejected, the decree

or order shall be executed—

(a) by proclaiming its substance to the cultivators or other occupants of the tenancy by beat of drum, or

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- (b) by notification reciting the substance of the decree or order, and affixed in some conspicuous place within, or adjacent to, the tenancy, or
- (c) in such other manner as may be prescribed.

Execution of decree for rent given in favour of sharer in undivided estate or tenure.

196. If a decree is given by the Deputy Commissioner under this Act, in favour of a sharer in a joint undivided estate or tenure, for money due to him on account of his share of the rent of any tenure comprised in such undivided estate or tenure,

application for the sale of such tenure shall not be received unless execution has first been taken out against any moveable property which the judgment-deber may possess within the district in which the suit was instituted, and unless the sale of such property (if any) has proved insufficient to satisfy the decree;

and such tenure may then, with the previous sanction of the Commissioner, but not otherwise, be sold, in execution of the decree, in the manner in which any other immoveable property may be sold in execution of a decree for money under the provisions of clause (b) of section 210.

197. When one or more co-sharer landlords applies or apply Execution of rent-decree for the execution of a decree obtained in a obtained by a co-sharer landsuit instituted under clause (b) of section 1.12, by the sale of a tenure or holding, the

Court executing such decree shall, before proceeding to sell the tenure or holding give notice of the application for execution to the other co-sharers.

198. In the execution of any decree or order by the Deputy Execution against im-Commissioner under this Act for the paymoveable property in certain ment of money, not being money due or cases, if judgment not satisrecoverable as an arrear of rent,

if satisfaction of the decree or order cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted,

the judgment-creditor may apply for execution against any immoveable property belonging to such debtor;

and such immoveable property may, with the sanction of the Commissioner, but not otherwise, be brought to sale in the manner provided in clause (b) of section 210.

Sales in Execution of Decrees of the Deputy Commissioner.

199. (1) For the purpose of executing a warrant of execution issued by the Deputy Commissioner under Notification of intended sale of moveable property, this Chapter against the moveable property and custody of property. of a judgment-debtor, the officer charged

- with the execution of the warrant shall prepare a list of the property pointed out by the judgment-creditor; and shall publish a proclamation specifying the day upon which the sale is intended to be held, and a copy of the said list, at the intended place of sale, and at the residence of the debtor.
 - (2) A copy of the said list and proclamation shall be transmitted to the Deputy Commissioner, and shall be affixed in his office.
 - (3) Until the day of sale, the said property shall remain in the custody of the officer executing the warrant.
 - 200. No sale of any moveable property other than perishable

 Interval between seizure property seized in execution under this and sale.

 Chapter shall be made until the expiration of a period of ten days after the day on which the property was so seized.
 - 201. (1) Such sale shall be held at the place where the property is deposited, or at the nearest market or other place of public resort if the officer executing the warrant thinks it is likely to sell there to better advantage.
 - (2) The property shall be sold by public auction in one or more lots as the officer executing the warrant may think advisable; and, if the judgment-debt and the costs of the execution and sale are realized by the sale of a portion of the property, the execution shall immediately be withdrawn with respect to the remainder.
 - 202. Officers executing warrants for the sale of property Prohibition of purchase under this Chapter, and all persons emby officers. ployed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.
 - 203. If, on the property being put up for sale, no price Postponement of sale if which the officer executing the warrant fair price be not offered. considers fair is offered for it, and the owner of the property, or some person authorized to act on his behalf, applies to have the sale postponed until the next day, or the next market day if a market be held at the place of sale or in the vicinity, the sale shall be postponed until such day, and shall then be completed at whatever price may be offered for the property.
 - 204. (7) The price of every lot shall be paid at the time Payment of purchase. of sale, or as soon thereafter as the officer money and delivery of proexecuting the warrant may direct; and, in perty to purchaser. default of such payment, the property shall again be put up and sold.

(2) When the purchase-money has been paid in full, the officer executing the warrant shall deliver the property to the purchaser with a certificate describing the property and stating the price paid.

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- 205. (r) From the proceeds of the sale, the officer executing
 Application of proceeds the warrant shall make a deduction, at the
 of sale. rate of one anna in the rupee, on account
 of the costs of the sale, and shall transmit the amount so deducted
 to the Deputy Commissioner in order that it may be credited to
 the Government.
- (2) The said officer shall deal with the rest of the proceeds in the prescribed manner.
- 206. (1) If, before the day fixed for the sale, a third party Procedure where third appears before the Deputy Commissioner, party claims interest in pro- and claims a right or interest in any of perty seized. the moveable property seized in execution, the Deputy Commissioner shall examine such party or his agent according to the law for the time being in force relating to the examination of witnesses; and, if he sees sufficient reason for so doing, may stay the sale of such property.
- (2) The Deputy Commissioner shall, after taking evidence, adjudicate upon such claim, and shall make such order thereupon as he thinks fit.
- (3) If the claimant fails to establish his right to the property seized in execution, the Deputy Commissioner may, by his order under sub-section (2), award to the judgment-creditor against the claimant, in addition to the costs of the proceedings such sum as the Deputy Commissioner may consider sufficient to cover any loss of interest or any other damage which the judgment-creditor has sustained by reason of the postponement of the sale.
- (4) The party against whom any order is passed by the Deputy Commissioner under this section may, at any time within one year from the date of the order, bring a suit in the Civil Court to establish his right:
- Provided that, if the property has been sold, the suit shall not be for the recovery of the property, but for damages against the judgment-creditor by whom the property was brought to sale.
- 207. No irregularity in publishing or conducting a sale of Irregularities not to moveable property under a warrant of vitiate sale.

 execution issued under this Chapter shall vitiate such sale; but nothing contained in this section shall bar any person who sustains damage by reason of any such irregularity from recovering damages by suit in the Civil Court if instituted within one year from the date of the sale.

208. (1) When a decree passed by the Deputy Commissioner Sale of tenure or holding under this Act is for an arrear of rent due in execution of decree for cree-holder may apply for the sale of such tenure or holding, and the tenure or holding may thereupon be brought to sale in execution of the decree according to the provisions for the sale of under tenures contained in the Bengal Rent Recovery (Under-tenures) Act, 1865;* and all the provisions of that Act, except sections 12, 13, 14, and 15 thereof, shall, as far as may be, apply to such sale:

Provided that the purchaser of a tenure at any such sale shall not be entitled to annul any lease, right, or tenancy referred to in clauses (a) to (e) of section 14 of this Act:

Provided also that the Commissioner may, by order, in any case in which he may consider it desirable so to do,—

- (a) prohibit the sale of any tenure or portion thereof, or
- (b) stay any such sale for any period specified in the order:

Provided also that any sale of a resumable tenure under this section shall not affect the right of the grantor or his successor in title to resume such tenure, but shall be made subject to such right.

- (2) When a warrant of execution has been issued under this Chapter against the person or moveable property of the judgment-debtor, no application shall be received under sub-section (1) while such warrant remains in force.
- 209. (1) In disposing of the proceeds of the sale of a tenure

 Disposal of proceeds of or holding under section 208, the following
 sale under section 208. procedure shall be observed, that is to say—
 - (a) there shall be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;
 - (b) there shall, in the next place, be paid to the decreeholder the amount due to him under the decree in execution of which the sale was made;
 - (c) if there remains a balance after those sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have accrued due to him in respect of the tenure or holding between the institution of the suit and the date of the sale; and
 - (d) the balance (if any) remaining after the payment of rent referred to in clause (c) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application:

Provided that, where a tenure or holding has been sold in execution of a decree obtained by one or more co-sharer landlords Act 6. in a suit instituted under clause (b) of section 142,—

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- (i) payment of the amount due under such decree shall, notwithstanding anything contained in clause (b) of this section, be made to the decree-holder, and to the other co-sharer landlords, in proportion to the amount found to be due to each, and,
- (ii) if there remains a balance, payment of any rent which may have accrued due in respect of the tenure or holding between the institution of the suit and the date of sale shall, notwithstanding anything contained in clause (c), but subject to the determination, in the manner and with the effect mentioned in sub-section (2), of any dispute as to their respective rights to receive such rent, be made to the said decree-holder and other co-sharer landlords in proportion to their respective shares in the tenure or holding.
- (2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (c), the Deputy Commissioner shall determine the dispute, and the determination shall have the force of a decree.
- 210. (1) If, after the sale of a tenure or holding in pursuance of section 208, any portion of the amount Sale of other property in decreed remains due, process may be applied execution of decree for arrears of rent of tenure or for against any other property, moveable or holding. immoveable, belonging to the judgmentdebtor.
- (2) Notwithstanding anything contained in sub-section (1), a decree-holder may, with the permission of the Deputy Commissioner granted for the reasons to be recorded in writing, proceed against any other property, moveable or immoveable, of the judgment-debtor without first making application for the sale of the tenure or holding in respect of which the arrear has accrued.
- (3) Property referred to in sub-sections (1) and (2) may be brought to sale,—
 - (a) if moveable, in the manner provided in sections 199 to 205, and,
 - (b) if immoveable, in the manner provided in sections 237, 238, 274 to 276, 278 to 284, 286, 287, 289 to 294, 305 to 310, 312 to 316, 318, 319, 334, and 335 of the Code of Civll Procedure.*

Act XIV. of 1882, but now see Act V. of 1908.

Procedure where third party claims to be in lawful possession of tenure or holding.

Procedure where third party claims to be in lawful possession of tenure or holding.

Procedure where third holding in pursuance of section 208, a third party appears before the Deputy Commission or, and alleges that he, and not the person against whom the decree has been obtained, was in lawful possession of, or had some interest in, the tenure or holding when the decree was obtained,

the Deputy Commissioner shall examine such party according to the law for the time being in force relating to the examination of witnesses; and if he sees sufficient reason for so doing, and if such party deposits in Court, or gives security for, the amount of the decree, the Deputy Commissioner shall stay the sale, and shall, after taking evidence, adjudicate upon the claim:

Provided that no such adjudication shall be made if the Deputy Commissioner considers that the claim was designedly or unnecessarily delayed:

Provided also that no transfer of a tenure shall be recognized unless it has been registered in the office of the landlord, or sufficient cause for non-registration is shown to the satisfaction of the Deputy Commissioner

(2) The party against whom judgment is given by the Deputy Commissioner under sub-section (1) may, at any time within one year from the date of the judgment, bring a suit in the Civil Court to establish his right.

Application to set aside sale of immoveable property on deposit of debt and compensation to purchaser.

Application to set aside sale of immoveable property on deposit of debt and compensation to purchaser.

acquired before the sale, may, at any time within a period of thirty days from the date of the sale, apply to have the sale set aside on his depositing in the Court of the Deputy Commissioner,—

- (a) for payment to the purchaser—a sum equal to five per centum of the purchase-money, and,
- (b) for payment to the decree-holder—the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation and sale, have been received by the decree-holder:

Provided that, if a person applies under section 213 to set aside the sale of his immoveable property, he shall not be entitled to make an application under this section.

(2) If the said deposits are made within the said period, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure* shall apply in the case of a sale so set aside.

Application to set aside this Chapter in execution of a decree, the sale of immoveable property decree-holder or the person who owned such property immediately before the sale may apply to the Deputy Commissioner to set aside the sale on the ground of a material irregularity in publishing or conducting it; but no sale shall be set aside on the ground of irregularity unless the applicant proves to the satisfaction of the Deputy Commissioner that he has sustained substantial injury by reason of such irregularity:

Provided that, if a person applies under section 212 to set aside the sale of his immoveable property, he shall not be entitled to make an application under this section.

- (2) If an application be made under this section, and if the objection be allowed, the Deputy Commissioner shall pass an order setting aside the sale.
- 214. No suit or application shall be entertained in any Court Grounds on which suit or application to set aside sale made under this Chapter, save under section 212 or section 213, or on the ground of fraud or want of jurisdiction.

Appeals.

Appeal from orders of Deputy Commissioners.

215. (1) All orders passed by a Deputy Commissioner under the foregoing provisions of this Act, not being—

- (a) judgments in suits, or
- (b) orders passed in the course of suits, and relating to the trial thereof, or
- (c) orders passed after decree, and relating to the execution thereof, or
- (d) orders passed under section 205 or section 211, shall be appealable—
 - (i) to the Commissioner, or,
 - (ii) if passed by a Deputy Collector exercising powers of a Deputy Commissioner—to the Deputy Commissioner.
- (2) No judgment of a Deputy Commissioner in any suit, and no order of a Deputy Commissioner passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.
- (3) Orders passed after decree and relating to the execution thereof (except orders passed under section 206 or section 211 of this Act, or under section 280, section 281, or section 282 of the

1908. Code of Civil Procedure*) shall be appealable to the Court to Act 6. which an appeal from the decree itself would lie.

- 216. Every appeal under section 215 shall be presented to the Limitation of appeals from such orders.

 Commissioner or the Deputy Commissioner, as the case may be, within thirty days from the date of the order.
- 217. Orders passed by the Commissioner or Deputy Commis-Bar to further appeals, sioner in appeals preferred under section with proviso for revision by Board or Commissioner.

 215 shall not be open to any further appeal; but the Board or (in the case of appeals decided by the Deputy Commissioner) the Commissioner may call for any case, and pass such orders thereon as it or he may think proper.
- 218. (1) In suits referred to in clause (3) or clause (7) of section 139, tried and decided by a Deputy Commissioner if the amount sued for, or the value of the property claimed, does not exceed one hundred rupees, the judgment of the Deputy Commissioner shall be final, and not open to revision or appeal except as provided in sub-section (2), unless in any such suit a question relating to a title to land, or to some interest in land, as between parties having conflicting claims thereto, has been determined by the judgment in which case the judgment shall be open to appeal in the manner provided in section 224.
- (2) When any such suit in which, if tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Deputy Commissioner.
- 219. Every petition of appeal to the Deputy Commissioner

 Appeal to Deputy Com.

 under section 218, sub-section (2), shall be presented within thirty days from the date on which the decree appealed against was signed.
- Appeal when to be heard. the case may be, shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent.
- (2) If, on the day fixed for hearing the appeal, or on any other day to which the hearing may be adjourned, the appellant does not appear in person or by agent, the appeal shall be dismissed for default.
- (3) If, on such day, the appellant appears, and the respondent does not appear in person or by agent, the appeal shall be heard ex-parte.

^{*} Act XIV, of 1882, but now see Act V. of 1908.

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221. If an appeal is dismissed for default of prosecution, the appellant may, within thirty days from the date of the dismissal, apply to the Deputy Commissioner or the Commissioner, as the case may be, for the readmission of the appeal; and, if it is proved to the satisfaction of the Deputy Commissioner or the Commissioner, as the case may be, that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Deputy Commissioner or the Commissioner, as the case may be, may readmit the appeal.

Rehearing of appeal on respondent, and judgment is given against application of respondent him, he may apply to the Appellate Court against whom ex-parte detected by sufficient cause from attending when the appeal was called on tor hearing, the Court may rehear the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

223. After hearing the appeal, the Deputy Commissioner or the Commissioner, as the case may be, shall give judgment in the manner provided in section 170 for giving judgment in original suits.

Appeal to Judicial Commissioner or High Court.

224. (1) In all suits before a Deputy Commissioner under this Act except—

- (a) suits in which, when tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner is declared by section 218, sub-section (1), to be final, and
- (b) suits in which, when tried and decided by a Deputy Collector, an appeal is allowed by section 218, subsection (2), to the Deputy Commissioner,

an appeal from the judgment of the Deputy Commissioner or Deputy Collector shall lie to the Judicial Commissioner, unless the amount or value in dispute exceeds five thousand rupees, in which case the appeal shall lie to the High Court.

- (2) A second appeal shall lie to the High Court, under Chapter XLII. of the Code of Civil Procedure,* from any appellate decree passed by the Judicial Commissioner under this Chapter, or from any order passed by him on appeal under section 215, subsection (3).
 - 225. (1) Where, in analogous suits, some appeals have been Hearing of appeals by Judicial Commissioner in and others to the Judicial Commissioner, the Judicial Commissioner may, on the application of any of the parties, transfer to

^{*} Act XIV, of 1882, but now see Act V. of 1'908.

his own Court the appeals pending in the Court of the Deputy Commissioner.

- (2) Where, in analogous suits, some appeals lie to the Deputy Commissioner and others to the Judicial Commissioner, a plaintiff or defendant whose appeal would ordinarily lie to the Deputy Commissioner may, if an appeal in any such suit has been presented by any other plaintiff or defendant to the Judicial Commissioner and admitted, present his appeal to the Judicial Commissioner instead of to the Deputy Commissioner, and the Judicial Commissioner may hear and decide the same.
- 226. Appeals to the Judicial Commissioner or to the High Limitation of appeal to Judicial Commissioner or High Court.

 Court under this Chapter shall be presented within the time provided for the presentation of appeals to a District Judge or the High Court, as the case may be, under the Code of Civil Procedure* by the law for the time being in force for the limitation of appeals.
- 227. (1) No appeal by a plaintiff or defendant shall lie from Power to set aside judg. a judgment or order passed against him by ment or order passed experts by default. default for non-appearance, whether such judgment or order were given under section 155, section 156, section 157, or section 169.

(2) If the party against whom any such judgment or order has

been given appears, either in person or by agent,—

(a) if a plaintiff, within thirty days from the date of the Deputy Commissioner's order, and,

(b) if a defendant, within thirty days after any process for enforcing the judgment has been executed,

or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Deputy Commissioner that there has been a failure of justice, the Deputy Commissioner may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit, and set aside the judgment or order.

- (3) No judgment or order shall be altered or set aside under sub-section (2) without previously summoning the opposite party to appear and be heard in support of it.
- Order to set aside judg.

 Order to set aside judg.

 ment final, but rejection of application to set aside abut, in all appealable cases in which the Deputy Commissioner, under that section, rejects an application for setting aside a judgment or order, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from

such final decision.

Application of section 561 of the Code of Civil Procedure.

229. The provisions of section 561 of the Code of Civil Procedure* shall, so far as applicable, apply to all appeals under this Act from decisions of the Deputy Commissioner.

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CHAPTER XVII.

LIMITATION.

- 230. The provisions of the Indian Limitation Act, 1877, shall, so far as they are not inconsistent Application of the Indian with this Act, apply to all suits, appeals, Limitation Act, 1877. and applications under this Act.
- 231. All suits and applications instituted or made under this Act, for which no period of limitation is General rule of limitation. provided elsewhere in this Act, shall be commenced and made respectively within one year from the date of the accruing of the cause of action:

Provided that there shall be no period of limitation for applications under section 28, 31, 34, 50, 61, 75, 105, or 121.

Limitation of suits and applications for grant of leases, etc.

232. Suits and applications for the delivery of leases or counterpart engagements, or for the determination of the rates of rent payable for lands held by a tenant, may be instituted and made, respectively, at any time during the tenancy.

- 233. Suits for the ejectment of an occupancy-raiyat or a nonoccupancy-raiyat on any of the grounds Limitation of certain suits for ejectment. mentioned in section 22 or in clauses (b) and (c) of section 41 shall be instituted within two years from the date of the misuse or breach complained of.
- 234. Suits and applications under section 244, for the recovery Limitation of suits and of arrears of rent, shall be instituted within three years from the end of the agricultural applications for arrears of rent. year in which the arrear became due.
- 235. (1) Where a landlord has instituted a suit against a tenant, or applied for a certificate under Successive suits or apsection 240 against a mundari khunt-kattidar, plications for recovery of for the recovery of any rent of his tenancy, the landlord shall not institute another suit, or apply for another such certificate, against him for the recovery of any rent of that tenancy until after six months from the date of the institution or making of the previous suit or application.
 - (2) Nothing in sub-section (1) shall prohibit a fresh suit for rent when a former suit has been withdrawn with leave to sue again,

Act XIV. of 1882 but now see Act V. of 1908. † Act XV. of 1877, but now see Act 1X. of 1908

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236. Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by Limitation of suits against an agent, may be brought at any time during agents for money, accounts. or papers. the agency, or within one year after the determination of the agency, of such agent:

Provided that, if the person having the right to sue has, by fraud, been kept from knowledge of the receipt of any such money by the agent, or if any fraudulent account has been rendered by the agent the suit may be brought within one year from the time when the fraud first became known to such person; but no such suit shall in any case be brought at any time exceeding three years from the termination of the agency.

Limitation of applications for recovery of possession of holding.

237. Applications for the recovery of possession of a holding or any protion thereof, from which an occupancy raiyat has been unlawfully ejected, must be instituted within three years from the date of such ejectment.

Limitation of suits or applications by village headmen for recovery of posses-

238. Suits or applications for recovery of possession of his office or agricultural land by a headman of a village or group of villages, whether known as manki or pradhan or manjhi or otherwise, against a landlord or any person holding by

virtue of any assignment from a landlord must be instituted or made within three years from the date of dispossession.

CHAPTER XVIII.

SPECIAL PROVISIONS WITH RESPECT TO MUNDARI KHUNG-KATTIDARS.

239. Such of the preceding sections as are applicable to mundari khunt-kattidars shall, in their Application of preceding sections to mundari khunt. application to such persons and their tenankattidari tenancies. cies, be read subject to the provisions of the following sections in this Chapter.

Restrictions on transfer of mundari khunt-kattidari tenancies.

240. (1) No mundari khunt-kattidari tenancy or portion thereof shall be transferable by sale whether in execution of a decree or order of a Court or otherwise:

Provided that, when a decree or order has been made by any Court for the sale of any such tenancy or portion thereof in satisfaction of a debt due under a mortgage (other than a usufructuary mortgage) which was registered before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903,* the sale may be made with the previous sanction of the Deputy Commissioner.

(2) If the Deputy Commissioner refuses to sanction the sale of any such tenancy or portion thereof under the proviso to subsection (1), he shall attach the land, and make such arrangement as he may consider suitable for liquidating the debt.

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- (3) No mortgage of a mundari khunt-kattidari tenancy or any portion thereof shall be valid except a bhugut-bandha mortgage for a period, expressed or implied, which does not exceed, or cannot in any possible event exceed, seven years.
- (4) No lease of a mundari khunt-kattidari tenancy or any portion thereof shall be valid except a lease of one or other of the following kinds, namely—
 - (a) mukarari leases of uncultivated land when granted to a mundari or a group of mundaris for the purpose of enabling the lessees or the male members of their families to bring suitable portions of the land under cultivation;
 - (b) leases of uncultivated land when granted to a mundari cultivator to enable him to cultivate the land as a raiyat.

Explanation.—The expression "uncultivated land," as used in this sub-section, includes land which, though formerly cultivated, is not, at the time the lease is granted, either under cultivation, or in the occupation of the lessee for purposes of cultivation.

- (5) Where a mundari khunt-kattidari tenancy is held by a group of mundari khunt-kattidars, no bhugut-bandha mortgage or mukarari lease of the tenancy or any portion thereof shall be valid unless it is made with the consent of all the mundari khunt-kattidars.
- (6) No transfer of a mundari khunt-kattidari tenancy or any portion thereof, by any contract or agreement made otherwise than as provided in the foregoing sub-sections, shall be valid; and no such contract or agreement shall be registered.
- (7) Nothing in the foregoing sub-sections shall affect any sale or, except as declared in the proviso to sub section (1), any mortgage, or any lease, made before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903.*
- 241. (1) Notwithstanding anything contained in section 240 Transfer for certain pura a mundari khunt-kattidar may without the poses. consent of his landlord, transfer the land comprised in his tenancy, or any part thereof, for any reasonable and sufficient purpose, having relation to the good of the tenancy or of the tenure or estate in which it is comprised, such as the use of the land for any charitable, religious, or educational purpose, or for the purposes of manufacture or irrigation, or as building ground for any such purpose, or for access to land used or required for any such purpose:

Provided that the transfer shall be made by registered deed, and that, before the deed is registered and the land transferred, the written consent of the Deputy Commissioner shall be obtained to the terms of the deed and to the transfer.

- (2) Before consenting to any such transfer, the Deputy Commissioner shall satisfy himself that the landlord and other, cosharers in the tenancy are adequately compensated for the loss (if any) caused to them by the transfer; and, where only part of the land comprised in the tenancy is transferred, may, if he thinks fit, apportion, between the transferee and the original tenant, all dues payable for the tenancy.
- (3) An appeal against any order of a Deputy Commissioner consenting or refusing to consent to any such transfer shall lie as provided in Chapter XVI.
- 242. If any person obtains possession of a mundari khuntkattidari tenancy or any portion thereof in Ejectment of persons uncontravention of the provisions of section lawfully obtaining postession of such tenancies. 240, the Deputy Commissioner may eject him therefrom;

and, if the tenancy was, before such possession was obtained, entered as a mundari khunt-kattidari tenancy in a record-of-rights finally published under this Act, or under any law in force before the commencement of this Act, no suit shall be maintainable in any Court in respect of such ejectment; but an appeal shall lie as provided in Chapter XVI.

243. (1) The rent of a mundari khunt-Enhancement of rent kattidari tenancy may be enhanced only—

- (a) by an order of the Deputy Commissioner, and
- (b) if it be shown before the Deputy Commissioner that the tenancy was created within a period of twenty years immediately preceding the presentation of the petition for enhancement.
- (2) An order of the Deputy Commissioner under sub-section (1) shall not enhance the rent of any such tenancy to an amount which would exceed one-half of the rent which would be payable for the land if it were held by a raiyat having a right of occupancy therein.
- (3) The provisions of sections 28 to 30 shall be applicable to proceedings for the enhancement of the rent of a mundari khuntkattidari tenancy.
- Recovery of arrears of rent under the certificate procedure where there is a Record of Rights.

*244. (1) When an arrear of rent accrues in respect of a Mundari khunt-kattidari tenancy for which a record-of-rights has been prepared under this Act or under any law in force before the commencement of this Act,

This section has been substituted by B. & O. Act IV. of 1914.

no suit shall be maintainable in any Court for the recovery of the arrear; but the landlord may apply in writing to the Deputy Commission r to sign a certificate authorizing the recovery thereof, with simple interest not exceeding twelve and-a-half, or (in the case of money recoverable under the Cess Act, 1880) at twelve and-a-half per centum per annum, under the Bihar and Orissa Public Demands Recovery Act, 1914.

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- (2) Every such application shall be signed and verified by the landlord making it, in the manner prescribed by rule 1 in Schedule II. to the said Act, as amended for the time being by rules made under section 47 thereof; and shall be chargeable with a fee of the amount which would be payable under the Court Fees Act, 1870, in respect of a plaint for the recovery of a sum of money equal to that stated in the application as being due.
- (3) Upon receiving any such application the Deputy Commissioner may, after making such inquiry and taking such evidence as he may consider necessary, and if he is satisfied that the arrear is due, sign a certificate, in the prescribed form, stating that the arrear is due; and shall include in the certificate the fee paid under sub-section (2) and shall cause the certificate to be filed in his office.
- (4) The person in whose favour any such certificate is signed shall be deemed to be the certificate-holder for the amount mentioned in the certificate, and the person against whom the certificate is signed shall be deemed to be the certificate-debtor for the said amount; and all proceedings taken by the Certificate-Officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his costs and on his responsibility, and not otherwise.
- (5) The Bihar and Orissa Public Demands Recovery Act, 1914, and sections 181 to 207 of this Act, with such restrictions and modifications (if any) as may be prescribed, shall apply to the execution, and to all proceedings arising out of the execution, of certificates filed under sub-section (3):—

Provided as follows:--

- (a) subject to the provisions or section 248, a certificate signed under this section may be enforced only by the attachment and sale of the moveable property of the person against whom the certificate is made, or by the attachment and realization of rent or other debts due to him, or by execution against his person in the manner provided by Chapter XVI. or by any two or more of these processes; and
- (b) no objection by any third person to the attachment or sale of crops shall be entertained, except—
 - (i) an objection, by a mortgagee holding under a bhugut bandha mortgage, that the judgment-debtor has other

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moveable property or assets, from which the sum due can be realized; or

- ii) an objection, by a lessee holding under a mukarari lease as described in section 240, clause (a) that the land in respect of which the arrear accrued is included in his lease, and that the judgment-debtor has other moveable property or assets from which the sum due can be realized; or
- (iti) an objection, by a cultivator, that he is in possession of the land in respect of which the arrear accrued, that the land is recorded in the Record-of-Rights as being in the possession of himself or of some person from whom he has lawfully acquired such possession and that the judgment-debtor has other moveable property or assets from which the sum due can be realized; or
- (iv) an objection, by such third person, that the land on which such crops were or are standing is entered in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired possession, and that such land does not form part of the tenancy in respect of which the certificate was signed.
- (6) Notwithstanding anything herein before contained, the Deputy Commissioner may, in any case, by written order setting forth the reasons therefor, refuse to sign a certificate as aforesaid or stay for any specified period the execution of any certificate which has been signed.
- (7) An appeal from any order made under sub-section (6) shall lie as provided in Chapter XVI.
- II. In sections 47 and 248 of the Chota Nagpur Tenancy Act, 1008, the words and figures "the Bihar and Orissa Public Demands Recovery Act, 1,14," shall be substituted for the words and figures "the Public Demands Recovery Act. 1805."
- 245. If, in the course of any proceedings under section 244, any question of title is raised which could, Reference of question of in the opinion of the Deputy Commissioner, title to Civil Court. more properly be determined by a Civil Court, the Deputy Commissioner shall refer such question to the principal Civil Court in the district for determination.
- Recovery of arrear of rent by suit where there is no record-of-rights.

246. (1) When an arrear of rent accrues in respect of a mundari khunt-kattidari tenancy for which no record-of-rights has been prepared, the landlord may institute a suit for the recovery of the arrear

(2) Subject to the provisions of section 248, a decree or order made in any such suit may be enforced only by the attachment and sale of the moveable property of the defendant, or by the attachment and realization of rent or other debts due to him, or by execution against his person in the manner provided by Chapter XVI., or by any two or more of these processes.

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Joinder of parties in proceedings under section 244 or 246.

247. Where a mundari khunt-kattidari tenancy is held jointly by a group of khuntkattidars,

and an objection to the making of a certificate under section 244, or to the execution thereof, or to the maintenance of a suit under section 246, is made on the ground that all the khunt-kattidars have not been made parties to the proceedings,

the objection shall not be entertained if it be shown that other khunt-kattidars could not be made parties without undue delay or expense.

- 248. Where a decree, or a certificate under the Public Demands Recovery Act, 1895,* has been made against Recovery of money due a mundari khunt-kattidar for any money due to the Government or rent due to a landlord. to the Government, or for rent due to a landlord, the Deputy Commissioner may attach the land occupied by him, and make such arrangements as the Deputy Commissioner may consider suitable for liquidating the debt.
- 249. When a mundari khunt-kattidar has paid the rent of his tenancy, including portions thereof due from Recovery of contributions his co-sharers or any of them, the said porfrom co-sharer tenants. tions may, if the proportions due by such co-sharers are definitely stated in a record-of-rights prepared under this Act, or under any law in force before the commencement of this Act, be recovered by him, with interest, under the procedure provided by section 244, as if they were an arrear of rent due to a landlord.

Entry of mundari khuntkattidari tenancies in recordof-rights.

- 250. All mundari khunt-kattidari tenancies shall be so described in any record-ofrights prepared under Chapter XII.
- 251. No suit shall be entertained under section 87 for the decision of any dispute regarding any entry Bar to suits under section 87. relating to a mundari khunt-kattidari tenancy in a record-of-rights.
- Decision of disputes regarding entries or omissions in record-of-rights.

252. (1) At any time within three months from the date of the certificate of the final publication of the record-of-rights under this Act, or under any law in force before the commencement of

this Act, a suit may be instituted before a Revenue-officer for the

Act 6.

decision of any dispute regarding any entry of a mundari khuntkattidari tenancy or the incidents thereof in the record, or regarding any omission to enter such a tenancy or any incident thereof in the record; and the Revenue officer shall hear and decide the dispute.

- (2) In all such suits the Revenue officer shall, subject to any rules made in this behalf under section 264, adopt the procedure laid down in Chapter XVI. for the trial of suits before the Deputy Commissioner.
- 253. An appeal shall lie, in the prescribed manner and to the prescribed officer, from any decision of a Appeal against such decisions. Revenue-officer under section 252.
- 254. Whenever a suit instituted under section 252 has been finally decided, a note of the decision shall Entry of decision in record-of-rights. be made in the record-of-rights, as finally published, by the Revenue officer referred to in that section; and such note shall be considered as part of the record.
- 255. When an order has been issued under section 80 of this Act, or under section 101 of the Bengal In preparing record-ofrights, judgments, etc., in Tenancy Act, 1885,* in respect of any local suits, not to be taken as area, estate, tenure, or part thereof, no judgevidence that tenancies are ment, decree, or order in any suit instituted or are not mundari khuntkattidari tenanci -s. thereafter shall be taken as evidence,

in any inquiry made by a Revenue officer engaged in the preparation of a record of rights for such area, estate, tenure, or part, under Chapter XII. of this Act, or under Chapter X. of the said Bengal Tenancy Act 1885,*

respecting any claim that any tenancy within that area, estate, tenure, or part is or is not a mundarı khunt-kattidari tenancy.

256. When a record-of-rights has been finally published under Record-of-rights to be conclusive evidence on the question whether a tenancy is a mundari khunt-kattidari tenancy.

section 83 of this Act, or under sub-section (2) of section 103A of the Bengal Tenancy Act, 1885 * or amended under section 254 of this Act,

the entries therein relating to mundari khunt-kattidari tenancies shall be conclusive evidence of the nature and incidents of such tenancies, and of all particulars recorded in such entries;

and, if any tenancy in the area, estate, or tenure for which the record-of-rights was prepared has not been recorded therein as a mundari khunt-kattidari tenancy, no evidence shall be received in any Court to show that such tenancy is a mundari khunt-kattidari tenancy.

CHAPTER XIX.

1908.

SUPPLEMENTAL PROVISIONS.

Foint Landlords.

257. When two or more persons are joint landlords, anything, which a landlord is, under this Act, required or authorized to do, must be done by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them.

Bar to Suits.

258. Save as expressly provided in this Act, no suit shall be

Bar to suits in certain entertained in any Court to vary, modify, or
set aside, either directly or indirectly, any
order or decree of any Deputy Commissioner or Revenue officer in
any suit or proceeding under section 29, section 32, section 35, section 42, section 46, sub-section (4), section 49, section 50, section 54,
section 61, section 63, section 65, section 73, section 75, section 85,
section 86, section 87, section 89, section 90, or section 91 (proviso),
or under Chapter XIII., XIV., XV., XVI., or XVIII., except on the
ground of fraud or want of jurisdiction.

Process.

- 259. Every notice, summons, or other process under this Act required to be served on any person shall be served in the prescribed manner.
- 260. Every process issued by a Deputy Commissioner or Re-Authentication and pay- venue-officer under this Act shall bear his ment of costs. seal and signature; and the cost of serving the same shall be paid by such person and in such manner as may be prescribed.

Costs.

- 261. The provisions of Chapter XVIII. of the Code of Civil Cost in suits and applications.

 Procedure* shall-apply to all suits and applications under this Act.
- 262. (1) A Revenue-officer or Deputy Commissioner may,
 Deposit of costs of prosubject to any directions given by the Local
 coodings to be incurred by
 Government, require any plaintiff or applicant to deposit in advance the whole or any
 part of the estimated amount of the expenses to be incurred by the
 Government in any proceedings under this Act.
- (2) If the amount so deposited by any person exceeds the sum finally made payable by him as costs, the excess shall be refunded to him when the proceedings are completed.

^{*} Act XIV. of 1882, but see Act V. of 1908.

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Production of Witnesses and Documents.

Act 6.

263. For the purposes of any inquiry under this Act, any Production of witnesses Deputy Commissioner or Revenue-officer shall have power to summon and enforce the attendance of witnesses, and compel the production of documents, in the same manner as is provided in the case of a Court by the Code of Civil Procedure.*

Rules and Notifications.

Power to make rules to carry out objects of Act.

264. (1) The Local Government may make rul s to carry out the objects of this Act.

- (2) In particular, and without prejudice to the generality of sub-section (1), the Local Government may make rules—
 - (i) to prescribe particulars to be specified, in pursuance of clause (a) of section 28, in applications for the enhancement of the rent of occupancy-holdings;
 - (ii) to limit the enhancement of the rent of occupancy-holdings under section 29;
 - (iii) to prescribe particulars to be specified, in pursuance of clause (j) of section 31, in applications for increase of rent in respect of increase in the area of land held by occupancy-raiyats;
 - (1v) to prescribe particulars to be specified, in pursuance of clause (h) of section 34, in applications for the reduction of rent paid by occupancy-raises;
 - (v) to prescribe the manner in which the possession of land should be given under section 46, sub-section (4), section 50, sub-section (2), section 71, or section 73, sub-section (3);
 - (vi) to prescribe the manner in which landlords shall send notices to the Deputy Commissioner under section 73, sub-section (2);
 - (vii) to prescribe the manner in which rents shall be settled under section 85;
 - (viii) to prescribe the officer to whom, and the manner in which, appeals shall lie from orders or decisions passed by Revenue-officers under section 61, section 85, section 87, section 80, Chapter XIII., Chapter XIV. Chapter XV., or section 252;
 - (ix) to regulate the transfer of cases to Civil Courts under the first proviso to section 87;
 - (x) to prescribe the manner in which records-of-rights shall be revised in pursuance of a direction given under section 98;

(x1) to declare the restrictions or modifications (if any) subject to which the provisions of Chapter XII. shall apply to the revision of records-of-rights or the settlement of rents in pursuance of a direction given under section 98;

1908. Act 6.

- (xii) to prescribe particulars to be contained in a record prepared under section 106;
- (xiii) to prescribe the form of statements to be prepared under section 111, clause (1);
- (xiv) to prescribe the manner in which copies of entries in records prepared under Chapter XV, shall be served under section 129;
- (xv) to regulate the exercise of the right conferred by section 140 to bring collective suits or make collective applications;
- (xvi) to prescribe the Court by which decrees or orders passed by a Deputy Commissioner under this Act may be executed;
- (xvii) to prescribe the form of applications for the execution of decrees or orders passed by a Deputy Commissioner under this Act;
- (xviii) to prescribe the manner of executing decrees or orders referred to in section 195;
- (xix) to prescribe the manner of dealing with sale-proceeds under section 205 sub-section (2);
- (xx) to prescribe the manner of service of notices, summonses and other processes, and of publication of notices, issued under this Act;
- (xxi) to declare by what person and in what manner the cost of serving processes issued by a Deputy Commissioner or a Revenue-officer under this Act shall be paid;
- (xxii) to regulate the procedure to be followed by Revenueofficers in the discharge of any duty imposed upon
 them by or under this Act, and may, by such rules,
 confer upon any such officer—
 - (a) any power exercised by a Civil Court in the trial of suits;
 - (b) power to enter upon any land, and to survey, demarcate, and make a map of the same, and any power exercisible by any officer under the Bengal Survey Act, 1875:* and
 - (c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil;

1908. Act 6.

- (xxiii) to prescribe the forms to be used under this Act;
- (*xiv) to prescribe the procedure to be followed and the information to be given by any party or applicant in any proceeding under this Act.
- 265. (1) The Local Government may, with the previous sanctomer to make rules as to procedure, and application of the Code of Civil Procedure*

 and may, by any such rule, direct that any provisions of the Code of Civil Procedure shall apply with or without modification, to all

and may, by any such rule, direct that any provisions of the Code of Civil Procedure* shall apply, with or without modification, to all or any classes of cases before the Deputy Commissioner.

- (2) When any provision of the said Code* is applied by such rules, the rules may further declare that any provision of this Act which is superseded by, or is inconsistent with, any provision so applied, shall be deemed to be repealed.
- (3) Until rules are made under sub-section (1), and, subject to those rules when made, and to the other provisions of this Act, the provisions of the Code of Civil Procedure,* relating to—
 - (a) the substitution and addition of parties,
 - (b) the amendment of plaints,
 - (c) the production of documents,
 - (d) the attendance, remuneration, punishment, and examination of witnesses,
 - (e) the amendment of decrees,
 - (f) commissions to examine witnesses,
 - (g) commissions for local investigations,
 - (h) attachment before judgment,
 - (j, arbitration, and
- shall, so far as may be, and in so far as they are not inconsistent with this Act, apply to all suits, appeals, and proceedings before the Deputy Commissioner under this Act, and to all appeals from decisions passed in such suits or proceedings.
- 266. (1) All powers conferred by this Act for making rules are subject to the condition that the rules be made after previous publication.
- (2) Sub-section (1) shall not apply to any rules made and published in the Calcutta Gazette within a period of two months from the commencement of this Act; but all rules so made and published shall be re-issued, after previous publication, and with such amendments (if any) as the Local Government may consider necessary within a period of one year from such commencement.

267. Al rules made, and notifications issued, under this Act,
Publication and effect of shall be published in the Calcutta Gazette
rules and notifications.

and, on such publication, shall have effect
as if enacted in this Act.

1908. Act 6.

Recovery of Dues.

- 268. (1) Costs and interest awarded under this Act in rentsuits and damages awarded under section 175 shall be recoverable as if they were arrears of rent.
- (2) All costs, interest, and damages not referred to in subsection (1), and all compensation, fines, and penalties awarded or imposed under this Act, shall be recoverable in the manner provided in Chapter XVI. for the recovery of money (not being arrears of rent) due under decree.

Powers.

- 269. A Revenue-officer may at any time transfer any pending Transfer of cases from one suit, application, or proceeding under this Revenue-officer to another. Act from the file of any Revenue-officer acting under this Act to the file of any other Revenue-officer so acting who is duly authorized to entertain and decide such suit, application, or proceeding.
- 270. In the performance of their duties and the exercise of Control over Deputy their powers under this Act, Deputy Commissioners and Deputy missioners shall be subject to the general direction and control of the Commissioner and the Board, and Deputy Collectors exercising functions of the Deputy Commissioner shall also be subject to the direction and control of the Deputy Commissioner.

Saving of Special Enactments.

Saving of special enact. 271. Nothing in this Act shall affect—ments.

- (a) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act; or
- (b) any other special or local law not repealed, either expressly or by necessary implication, by this Act.

1908.

Act 6.

SCHEDULE A.

ACTS AND NOTIFICATION REPEALED IN THE CHOTA NAGPUR DIVISION, EXCEPT THE DISTRICT OF MANBHUM.

[See section 2 (1).]

Acts of the Bengal Council.

No. and year.			Short title,
IV. of 1897	•••	•••	dure Act. The Chota Nagpur Commutation Act, 1897.
V. of 1903	•••	•••	The Chota Nagpur Tenancy (Amendment) Act,
V. of 1905		•••	The Chota Nagpur Tenancy (Amerement) Act,
VIII. of 1879	•••	•••	The Bengal Rent Settlement Act, 1079.

Notification.

Notification No. 1379 L. R. dated the 5th March 1908, published in the Calcutta Gasette of the 11th idem, Part I., page 631, and in the Gasette of India of the 21st idem, Part I., page 214.

SCHEDULE B.

ACTS PROSPECTIVELY REPEALED IN THE DISTRICT OF MANBHUM.

[See section 2 (2).]

	1	. 2			
No. at	nd year,	Short title.			
Ac	t of th	ne Governor-General of India in Council.			
X. of 1859	***	The Bengal Rent Act, 1859.			
		Acts of the Bengal Council.			
VI. of 1862	•••	The Bengal Rent Act, 1862.			
IV. of 1867	•••	The Bengal Rent (Appeals) Act, 1867.			
VIII. of 1879	•••	The Bengal Rent Act, 1862 The Bengal Rent (Appeals) Act, 1867 The Bengal Rent Settlement Act, 1879.			

INDIAN LUNATIC ASYLUMS (AMENDMENT) ACT. 1423

BEN. ACT I. OF 1909.

1909. Act 1

The Indian Lunatic Asylums (Amendment) Act, 1909.*

[PUBLISHED IN THE "CALCUTTA GAZETTE" OF THE 17TH
FEBRUARY 1909.]

An Act to amend the Indian Lunatic Asylums Act, 1858.†

WHEREAS it is expedient to amend the Indian Lunatic Asylums Act, 1858;†

AND WHEREAS the previous sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892,‡ to the passing of this Act;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Lunatic Asylums (Amendment) Act, 1909.

2. Section 17B of the Indian Lunatic Asylums Act, 1858,†

Amendment of Act shall, so far as the Province of Bengal is XXXVI, of 1858, section concerned, be read as if it referred to parts of Bengal situated anywhere outside Calcutta.

^{*} This Act has been repealed in the Presidency of Fort William in Bengal by Ben. Act I. of 1914

[†] Act XXXVI, of 1858.

[‡] Stat. 55 & 56 Vict., c. 14.

1909. Act 2.

BEN, ACT II. OF 1909.*

The Bengal Court of Wards (Amendment) Act, 1909.

[Published in The "Calcutta Gazette" of the 17th February 1909.]

An Act further to amend the Court of Wards Act, 1879.†

WHEREAS it is expedient further to amend the Court of Wards Act, 1879;† It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Court of Wards (Amendment) Act, 1909.

Amendment of Bengal Act IX. of 1879, section 50 2. At the end of section 50 of the Court of Wards Act, 1879,† the following shall be added, namely:—

"or mortgages on immoveable property."

† Ben. Act IX. of 1879.

^{*} This Act which is in force by its own operation in Western Bengal only has been extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I. of 1914).

BEN. ACT NO. III. OF 1909.

The Chota Nagpur Encumbered Estates (Amendment) Act, 1909.

CONTENTS.

SECTIONS.

- 1. Short title.
- 2. Amendment of section 2 of Act VI. of 1876.
- 3. New section 2A-
 - Power of Deputy Commissioner to order production of statement and documents.
- 4. Amendment of section 3.
- 5. Amendment of section 4.
- 6. Amendment of section 5.
- 7. Addition to section 7.
- g. Amendment of section g.
- 9. Amendment of section 10.
- 10. New section 10A-10A. Review by Commissioner
- 11. Amendment ef section 12.
- 12. New section 12A-
 - 12A. Continuance of disabilities after restoration of property to owner.
- 13. New section 14A-
 - 14A. Power to order production of of title to tenures and undertenures.

SECTIONS.

- 14. New sections 18, 18A, and 18B-
 - 18. Power of manager to raise money by mortgage, sale, or loan.
 - 18A. Freedom from obligation to inquire into necessity for, or application of, money.
 - 18B. Power of manager to contract and take action for the benefit of the property.
- 15. New sections 19A and 19B-
 - 19A Power to make orders as to education of holder's children. Penalty for disobedience.
 - 19B. Recovery of fines.
- 16. New sections 21A and 21B-
 - 21A. Control by Board of Revenue.
 - 21B. Suits and appeals by and against holder during management.
- 17. Amendment of section 23.
- 18 Repeal of section 24.

1909. Act 8.

BEN. ACT NO. III. OF 1909.

The Chota Nagpur Encumbered Estates (Amendment) Act, 1909.

[Published in the "Calcutta Gazette" of the 24th March 1909.]

An Act further to amend the Chota Nagpur Encumbered Estates
Act, 1876.*

WHEREAS it is expedient further to amend the Chota Nagpur Encumbered Estates Act, 1876;*

AND WHEREAS the previous sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,† to the passing of this Act;

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Chota Nagpur Encumbered Estates (Amendment) Act, 1909.
- 2. (r) In section 2 of the Chota Nagpur Encumbered Estates

 Amendment of section 2 Act, 1876,* as amended by the Chota Nagof Act VI. of 1876. pur Encumbered Estates (Amendment) Act
 1884,‡ (hereinaster cited as "the said Act"), for the words from
 "or, when any such property" to the words "such property is
 situate," the following shall be substituted, namely:—

"or the Deputy Commissioner within those jurisdiction any such property belonging to such holder is situate, when—

- (i) attachment has been made of, or a proclamation has been issued for the sale of, such property or any portion thereof in execution of a decree or order of a Civil Court or a Revenue Court, or
- (ii) such Deputy Commissioner is satisfied, after making such inquiry as he may think fit, and after considering and placing on record all representations (if any) made by such holder, that such holder has entered upon a course of wasteful extravagance likely to dissipate his property."
- (2) After the words "consent of the Lieutenant-Governor of of Bengal" in the same section, the words "(to be obtained through the Board of Revenue)" shall be inserted.
- (3) After the words "during the continuance of such management" in the same section, the following shall be inserted, namely:—

" Provided as follows:-

^{*} Act VI. of 1876.

First, if any holder referred to in clause (ii) of this section petitions the Commissioner, while the inquiry referred to in that clause is being made, to postpone, until the petitioner has been heard, the passing of orders on any request that the Deputy Commissioner may make for applying the provisions of this Act to his case.

1909. Act 3.

and, if a request as aforesaid be made by the Dequty Commissioner.

the Commissioner shall appoint a day for hearing the petitioner; and, if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Commissioner shall not pass any order in the matter until he has been heard:

Secondly, if any holder referred to in clause (ii) of this section petitions the Board of Revenue, while any proceedings are pending before the Commissioner under Proviso First, to postpone, until the petitioner has been heard, the passing of orders on any request that the Commissioner may make for the consent of the Lieutenant-Governor to the application of the provisions of this Act to his case,

and, if a request as aforesaid be made by the Commissioner,

the Board of Revenue shall appoint a day for hearing the petitioner; and, if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Board shall not pass any order in the matter until he has been heard:

Thirdly, the consent of the Lieutenant-Governor shall not be given in the case of any holder referred to in clause (11) of this section unless either-

such holder belongs to a family of political or social importance, or

the Lieutenant-Governor is satisfied that it is desirable, in the interests of the tenants of such holder, that such consent should be given."

New section 2A.

3. After section 2 of the said Act, the following shall be inserted, namely:

Power of Deputy Commissioner to order production of statement and documents.

"2A. (1) For the purpose of making an application under section 2 in the case of any holder, the Deputy Commissioner may, by written order, require the said holder to produce before him, on a date to be stated in such order,-

- (i) a statement in writing, showing-
 - (a) all debts and liabilities to which the said holder is subject,

1909. Act 8.

- (b) the amount, kind, and particulars of his property, and the annual value of any such property not consisting of money,
- (c) the names and residences of his creditors, so far as they are known to, or can be ascertained by, him, and
- (d) such other information as the Deputy Commissioner may, by his order, require, and
- (ii) such documents relating to his estate, which are in the possession, power, or control of the holder, as the Deputy Commissioner may deem necessary.
- (2) The Deputy Commissioner may, by a like order, call upon any person, in whose possession, power, or control he has reason to believe there is any document relating to a debt or liability to which the holder is subject, to submit the same to him for the aforesaid purpose."
 - 4. (1) In clause First of section 3 of the said Act, after the words "British India," the words "or in any Revenue Court in Bengal" shall be inserted.
- (2) In clause Secondly of the same section, after the words "British India," the words "or any Revenue Court in Bengal" shall be inserted.

Amendment of section 4.

5. (1) In section 4 of the said Act, after clause thirdly, the following shall be inserted, namely:—

"fourthly, all sums due in repayment of loans effected under the power conferred by clause (c) of section:18,"

and clause fourthly shall be renumbered clause fifthly.

- (2) In the same section, the words, from "and also in or towards the repayment" to "by the manager under this Act," are hereby repealed.
 - 6. In section 5 of the said Act, for the words "Urdu and Hindi," the words "and the language of the district or estate" shall be substituted.

Addition to section 7.

7. To section 7 of the said Act, the following shall be added, namely:—

"If a holder of property has petitioned the Commissioner,

Barring of debts incurred after making petition for postponement of orders for application of Act.

Sioner might make for applying or reapplying the provisions of this Act to his case, every debt or liability which such holder

has, after the date on which the said request was made, incurred or charged upon his property, shall be barred with the exception of—

- (a) debts due or liabilities incurred to the Government,
- (b) debts or liabilities which the Deputy Commissioner is satisfied had necessarily to be incurred for the maintenance of such holder or his family,
- (c) in the case of under-tenures, the rent due to the superior landlord, and
- (d) interest due in respect of debts or liabilities incurred before the said date."

Amendment of section 9. 8. (1) In section 9 of the said Act, after the word "lease,"—

- (a) in the first place where it occurs, the words "or rentfree or maintenance-grant," and,
- (b) in all other places where it occurs, the words "or grant," shall, respectively, be inserted.

(2) To the said section, the following shall be added, name-ly:—

"Provided that no rent-free or maintenance-grant shall be set aside or cancelled without the previous sanction of the Commissioner, which may be accorded only if he is satisfied that the grant was not made in good faith."

Amendment of section 10. 9. In section 10 of the said Act,—

- (a) after the figure "9," the words and figure "except a refusal under the Proviso to section 9" shall be inserted; and,
- (b) for the words "shall be final," in both places in which they occur, the words, figures, and letters, "shall, subject to the provisions of sections 10A and 21A, be final," shall be substituted.

New section 10A.

10. After section 10 of the said Act, the following shall be inserted, namely:—

- "10A. The Commissioner may, of his own motion, review any Review by Commissioner or proceeding under section 6, 7, 8, 9, sioner.

 or 10, and may revise, modify, or reverse the same."
- 11. (1) In section 12 of the said Act, for the words "received Amendment of section from the Government under section, \$8" the words, brackets, letter, and figures, "effected under the power conferred by clause (c) of section 18," shall be substituted.
- (2) In the said section 12, after the words "powers hereinafter contained," the following shall be inserted, namely:—

1909. Act 8. "Provided that, where a fresh order has been made under section 2, in pursuance of section 12A, sub-section (5), reappointing a manager, and vesting in him the management of the whole or any portion of the property of any holder, such property shall not be restored to such holder, but shall be retained by the manager for restoration to the heir of such holder in due course."

New section 12A.

12. After section 12 of the said Act, the following shall be inserted, namely:—

- "12A. (1) When the possession and enjoyment of property is

 Continuance of disabilities after restoration of property to owner.

 such property when the possession and enjoyment of property is
 restored, under the circumstances mentioned in the first or the third clause of section 12, to the person who was the holder of
 the application under section 2 was made,
 such person shall not be competent, without the previous sanction
 of the Commissioner,—
 - (a) to alienate such property or any part thereof in any way, or
 - (b) to create any charge thereon extending beyond his lifetime.
- (2) If the Commissioner refuses to sanction any such alienation or charge, an appeal shall lie to the Board of Revenue, whose decision shall be final.
- (3) Every alienation and charge made or attempted in contravention of sub-section (1) shall be void.
- (4) The Deputy Commissioner may at any time, either of his own motion, or on the application of any person interested, make an inquiry to ascertain whether any holder of property who is referred to in sub-section (1) has made or attempted to make any alienation or charge in contravention of that sub-section, and shall consider and place on record all representations (if any) made by such holder, and by the person in whose favour such alienation or charge is alleged to have been made.
- (5) If the Deputy Commissioner is satisfied, after making such an inquiry, that such holder has made or attempted to make any alienation or charge in contravention of sub-section (1), he may make a report to the Commissioner setting forth the result of the inquiry, and showing all debts and liabilities to which such holder is subject, and requesting that the provisions of this Act be reapplied to his case; and the Commissioner may, with the previous consent of the Lieutenant-Governor (to be obtained through the Board of Revenue), publish a fresh order under section 2 reappointing a manager, and vesting in him the management of the whole or any portion of the property of such holder:

Provided as follows:-

First, if the said holder petitions the Commissioner, while the said inquiry is being made, to postpone, until the petitioner has

been heard, the passing of orders on any request that the Deputy Commissioner may make for reapplying the provisions of this Act to his case,

1909. Aot 3.

and if a request as aforesaid be made by the Deputy Commissioner,

the Commissioner shall appoint a day for hearing the petitioner; and, if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Commissioner shall not pass any order in the matter until he has been heard:

Secondly, if the said holder petitions the Board of Revenue while any proceedings are pending before the Commissioner under Proviso First, to postpone, until the petitioner has been heard, the passing of orders on any request that the Commissioner may make for the consent of the Lieutenant-Governor to the reapplication of the provisions of this Act to his case,

and if a request as aforesaid be made by the Commissioner,

the Board of Revenue shall appoint a day for hearing the petitioner; and, if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Board shall not pass any order in the matter until he has been heard.

- (6) No suit shall be brought to charge any person to whom property is restored under the circumstances mentioned in the first or the third clause of section 12—
 - (i) upon any promise, made after such restoration, to pay any debt contracted while the management of the property was vested in the manager, or
 - (ii) upon any ratification, made after such restoration, of any promise or contract made while the management of the property was vested in the manager,

whether or not there be any new consideration for such promise or ratification."

New section 14A.

13. After section 14 of the said Act, the following shall be inserted, namely:—

- "14A. (1) The manager may order all holders of tenures and
 Power to order production of title to tenures and ment to produce their evidence of title to such tenures and under-tenures.
- (2) Any person who refuses to comply with an order of the manager under sub-section (1) shall be liable, by order of the Deputy Commissioner, to a fine not exceeding five hundred rupees:

Provided that the Deputy Commissioner shall, before passing such order, hear any explanation or objection that may be made by such person."

1909. Act 8.

New sections 18, 18A, 14. For section 18 of the said Act, the following shall be substituted, namely:—

- "18. After a scheme has been approved by the Commissioner

 Power of manager to raise under section 11, the manager shall, subject to the sanction of the Commissioner, have power—
 - (a) to demise, by way of mortgage, the whole or any part of such property for a term not exceeding twenty years from the date of publication of the order under section 2, or
 - (b) to sell, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of such property as may appear expedient,

for the purpose of raising any money which may be required for the settlement of the debts and liabilities to which the holder of the property is subject, or with which such property or any part thereof is charged, or

(c) to borrow money, at such rate of interest as appears reasonable to the Board of Revenue,

for the aforesaid purpose, or for the purpose of meeting the costs of such repairs and improvements of the property as appear necessary to the manager, and are approved by the Commissioner.

- "18A. (1) A mortgagee advancing money upon any mort-Freedom from obligation gage made under section 18 shall not be to inquire into necessity for, or application of, money. that no more than is wanted is raised.
- (2) The receipt of the manager for any moneys paid to him as such shall discharge the person paying the same therefrom, and from being concerned to see to the application thereof.
- "18B. Subject to the sanction of the Commissioner, the Power of manager to conmanager shall have power to enter upon any tract and take action for contract, or to execute or relinquish any the benefit of the property. lease or counterpart of a lease, or to take any action not otherwise provided for in this Act, which, in his opinion, is necessary for the proper care and management of the property."

New sections 19A and 19B.

- 15. After section 19 of the said Act, the following shall be inserted, namely:—
- Power to make orders as to education of holder's children. Penalty for disobedience.

 Commissioner may make such orders as to him may seem fit in respect of the education of any child of a holder whose property is being managed under the provisions of this Act otherwise than on the application of the Deputy Commissioner.
- (2) Any person who disobeys any order made by the Commissioner under sub-section (1) shall be liable, by order of the Deputy Commissioner, to a fine not exceeding five hundred/rupees:

Provided that the Deputy Commissioner shall, before passing such order, hear any explanation or objection that may be made by such person.

1909. Act 3.

"19B. Any fine imposed by the Deputy Commissioner under section 14A or section 19A shall be recoverable as an arrear of land-revenue."

New sections 21A and 21B. 16. After section 21 of the said Act, the following shall be inserted, namely:—

"21A. All orders or proceedings of the Commissioner and of Control by Board of Re. the Deputy Commissioner under this Act venue. shall be subject to the supervision and control of the Board of Revenue and the Board of revenue may, if it thinks fit, revise, modify, or reverse any such order or proceeding.

"21B. During the period of management,-

Suit and appeals by and (1) every suit or appeal by the holder against holder during man-shall be instituted in his name by the manager;

- (2) in every pending suit or appeal in which the holder is plaintiff or defendant, the manager shall be named as the representative of the holder for the purposes of the suit or appeal; and no application in any such suit or appeal shall be made to the Court on behalf of the holder except by the manager;
- (3) no person other than the manager shall be ordered to sue or be sued as next friend or guardian, or be named as guardian, of the holder, for a pending suit; and
- (4) the Court, upon application by the manager, or by any party to a suit, may order that the plaint or memorandum of appeal be amended so as to conform with the requirements of clause (1), or that the manager be named as the representative of the holder as required by clause (2), of this section."

Amendment of section 23. 17. In section, 23 of the said Act,-

- (a) to the words "nothing in this Act," the words, figure, and letter, "subject to the provisions of section 21B," shall be prefixed; and
- (b) the words "but to all such suits the manager of such property shall be made a party" shall be omitted.

Repeal of section 24.

18. Section 24 of the said Act is hereby repealed.

1909. Act 4. BEN. ACT NO. IV. OF 1909.

The Sambalpur (Delegation) Act, 1909.

[PUBLISHED IN THE "CALCUTTA GAZETTE" OF THE 25TH AUGUST 1909.]

An Act to authorize the Delegation to the Board of Revenue of Functions of the Government of Bengal under Enactments in force in the District of Sambalpur.

WHEREAS it is expedient to empower the Government of Bengal to delegate to the Board of Revenue certain of its functions under enactments in force in the district of Sambalpur;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Sambalpur (Delegation) Act, 1909.

2. The Local Government, with the previous sanction of the

Delegation to the Board
of Revenue of functions of
the Local Government in
Sambalpur.

Government of India, may, by notification
in the Calcutta Gasette, delegate to the
Board of Revenue any of the functions of
the Local Government under any enactment
for the time being in force in the district of Sambalpur.

^{*} Stat. 55 & 56 Vict., c. 14.

BEN. ACT NO. V. OF 1909.

The Bengal Excise Act, 1909.

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BEN. ACT NO. V. OF 1909.

1909. Act 5.

The Bengal Excise Act, 1909.

[Published in the "Calcutta Gazette" of the 8th SEPTEMBER 1909.]

An Act to consolidate and amend the Excise Law in Bengal.

WHEREAS it is expedient to consolidate and amend the law in Bengal relating to the import, export, transport, manufacture, possession, and sale of "alcoholic" liquor and intoxicating drugs;

AND WHEREAS, the Acts mentioned in Part I. of the Schedule having been passed by the Governor-General of India in Council, the previous sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892† to the passing of this Act;

It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

1. (1) This Act may be called the Short title, extent and Bengal Excise Act, 1909; commencement.

- (2) It extends to the whole of Bengal; and
- (3) It shall come into force on such date as the Local Government may, by notification, direct.

2. In this Act, unless there is anything Definitions. repugnant in the subject or context,-

- (1) "beer" includes ale, stout, porter, and all other fermented liquor made from malt;
- (1A) "Bengal" means the Presidency of Fort William in Bengal;‡
 - (2) [Repealed by Ben. Act VII. of 1914;]
- (3) to "bottle" means to transfer liquor from a cask or other vessel to a bottle or other receptacle for the purpose of sale, whether any process of rectification be employed or not and includes re-bottling;
 - (4) "Calcutta district" means—
 - (a) the area within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal;

^{*} Substituted for "intoxicating" by Ben. Act VII. of 1914.

[†] Stat. 55 & 56 Vict., c. 14. ‡ Inserted by Ben. Act VII. of 1914.

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- (b) the suburbs of Calcutta, as for the time being defined by notification published under section i of the Calcutta Suburban Police Act, 1866,* and the Municipalities of Howrah and Bally, or such part of those areas as the Local Government by notification direct; or, if the Local Government by notification so directs, no part of any of those areas; and
- (c) any other areas, in the vicinity of those referred to in sub-clauses (a) and (b), which the Local Government may, by notification, declare to be included in the "Calcutta district;"

(4A)† "Cocaine" includes—

- (1) coca leaves,
- (ii) alkaloids of coca,
- (iii) every drink or substance prepared from the coca plant (Erythroxylum coca),
- (iv) every drug, synthetic or other, having a like physiological effect to that of cocaine, and
- (v) every preparation or admixture of any article hereinbefore mentioned.
- (5) "Collector" means,—
 - (i) in the Calcutta district, the person appointed under section q, clause (b) to exercise all the powers, and to perform all the duties, of the Collector in that district and,
 - (ii) elsewhere, the chief officer in charge of the revenueadministration of a district:
- (6)‡ "denaturant" means any substance prescribed, by rule made in this behalf under clause (3) of section 86, for admixture with spirit in order to render the mixture unfit for human consumption, whether as a beverage, or internally as a medicine, or in any other way whatsoever;
- (6A) to "denature" means to mix spirit with one or more den aturants in such manner as may be prescribed by rule made in this behalf under clause (3) of section 86, and "denatured spirit" means spirit so mixed;
- (7) "excisable article" means any liquor or intoxicating drug as defined by or under this Act;
- (8) "Excise Commissioner" means the officer appointed under section 7, clause (a);
- (9) "Excise Officer" means the Collector or any officer or other person appointed or invested with powers under section 7;

^{*} Ben. Act 11. of 1866.

[†] Clause (4A) has been inserted by Ben. Act VII. of 1914. † Clause (6) was newly substituted by Ben. Act VII. of 1914.

Clause (6A) was inserted by Ben. Act VII. of 1914.

(10) "excise-revenue" means revenue derived or derivable from any duty, fee, tax, payment (other than a fine imposed by a Criminal Court), or confiscation imposed or ordered under this Act or any other law for the time being in force relating to liquor or intoxicating drugs;

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- (11) "export" means to take out of Bengal;
- (12) "import" means to bring into Bengal;
- (13) "intoxicating drug" means—
 - (i) ganja, bhang or siddhi, charas, and every preparation of the hemp plant (Cannabis sativa),
 - (ii) every admixture of, and every* drink made from, any article referred to in sub-clause (i) of this clause,†
 - (iia) cocaine, and ‡
 - (iii) any other* drink or substance which the Local Government may specify in this behalf by notification, with every preparation or admixture of the same,

but does not include opium or anything which is included in opium" as defined in the Opium Act, 1878;

- (14) "liquor" means "liquid consisting of or containing alcohol" and includes spirits of wine, spirit, wine, tari, pachwai, beer and any substance which the Local Government may, by notification, declare to be liquor for the purposes of this Act;
 - (15) "manufacture" includes-
 - (i) every process, whether natural or artificial, by which any excisable article is produced or prepared (including the tapping of tari-producing trees and the drawing of tari from trees),
 - (ii) re-distillation, and
 - (iii) every process for the rectification, flavouring, blending or colouring of liquor; "or for the reduction of liquor for sale;"**

Note,—Liquor as defined in s. 2 (14) must be intoxicating liquor—16 C. W. N. 785.

Essence of manufacture.—The essence of manufacture as defined in cl. (15) of s. 2 of the Bengal Excise Act is, that is a process. A mere dilution of denatured spirit with water is not a process for the manufacture of an excisable article—19 C. L. J. 53—18 C. W. N. 486.

^{*} The word "intoxicating " repealed by Ben. Act VII. of 1814 is omitted here.

[†] The word " and " repealed by Ben. Act VII. of 1914 is omitted here.

[‡] Sub-clause (iia) has been inserted by Ben. Act VII. of 1914.

Act I. of 1878.

Words quoted were substituted for the words "intoxicating liquor" by Ben-Act VII. of 1014.

Act VII. of 1914.

Words repealed by Ben. Act VII. of 1914 are omitted here.

Words quoted were added by Ben. Act VII. of 1914.

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- (16) "pachwai" means fermented rice, millet, or other grain, whether mixed with any liquid or not, and any liquid obtained therefrom, whether diluted or undiluted; but does not include beer;
- (17) "place" includes building, house, shop, booth, vessel, raft, vehicle* and tent;
- (18) expressions referring to "sale" include any transfer otherwise than by way of gift;
- (19) "spirit" means any liquor containing alcohol obtained by distillation, whether it is denatured or not;
- (20) "tari" means fermented or unfermented juice drawn from any cocoanut, palmyra, date, or other kind of palm tree; and

NOTE.—Juice drawn from any cocoanut does not mean the milk of the cocoanut but the juice of the tree—16 C. W. N. 705—13 Cr. L. J. 545.

(21) "transport" means to remove from one place to another within Bengal.

Provision supplemental to the definition of "intoxicating drug."

- 3. The Local Government may, by notification, declare what shall be deemed to be ganja, bhang or siddhi or charas.
- 4. The Local Government, with the previous sanction of the Power to declare what shall be deemed to be "country liquor" and "foreign liquor," respectively.

 Government of India, may, by notification, declare what, for the purposes of this Act or any portion thereof, shall be deemed to be "country liquor" and "foreign liquor," respectively.
- 5. (1) The "Local Government" may, by notification, declare Definition of retail and with respect either to the whole of Bengal, wholesale. or to any specified local area, and as regards purchasers generally or any specified class of purchasers, and either generally, or for any specified occasion, what quantity of any excisable article shall, for the purposes of this Act, be the limit of a retail sale.
- (2) The sale of any excisable article in any quantity in excess of the quantity declared in respect thereof under sub-section (1) shall be deemed to be a sale by wholesale.

Saving of certain Acts.

6. (1) Nothing contained in this Act shall affect the provisions of—

- (a) the Calcutta Suburban Police Act, 1866,‡ or
- (b) the Calcutta Police Act, 1866, § or

^{*} Added by Ben. Act VII. of 1914.
† Substituted for the word "Board" by Ben. Act VII. of 1914.
‡ Ben. Act II. of 1866.

[‡] Ben. Act II. of 1866. § Ben. Act IV. of 1866.

(c) the Sea Customs Act, 1878,* or

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- (d) the Cantonments Act, 1889,† or
- (e) the Indian Tariff Act, 1894,‡ (except section 6 thereof).
- (2) All references to act XXI. of 1856 in the said Calcutta Suburban Police Act, 1866, and all references to Act XI. of 1849 in the said Calcutta Police Act, 1866, shall be construed as references to this Act.

CHAPTER II.—ESTABLISHMENTS, CONTROL, APPEAL, AND REVISION.

- 7. (1) The administration of the Excise Department and the

 Establishments, and decollection of the excise-revenue within a district shall ordinarily be under the charge powers.

 of the Collector.
- (2) The Local Government may, by notification applicable to the whole of Bengal or to any specified local area,—
 - (a) appoint an officer who shall, subject to such control as the Local Government may direct, have the control of the administration of the Excise Department and the collection of the excise-revenue;
 - (b) appoint any person to exercise all or any of the powers, and to perform all or any of the duties, conferred and imposed on a Collector by or under this Act, either concurrently with, or in subordination to, or to the exclusion of, the Collector, and subject to such control as the Local Government may direct;
 - (c) appoint officers of the Excise Department of such classes, and with such designations, powers, and duties, as the Local Government may think fit;
 - (d) order that all or any of the powers and duties assigned by or under this Act to any officer appointed under clause (c) of this section shall be exercised and performed by any Government officer or any other person;
 - (e) delegate to¶ the Commissioner of a Division, or the Excise Commissioner all or any of the powers conferred upon the Local Government by or under this Act except the power conferred by section 85 to make rules;

^{*} Act VIII. of 1878.

[†] Act XIII. of 1889.

Act VIII. of 1894.

Sen. Act II. of 1866.

Ben. Act IV. of 1866.
 The words "the Board" repealed by Ben. Act VII. of 1914, are emitted here.

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- (f) withdraw from any officer or person all or any of the powers or duties conferred or imposed upon him by or under this Act: and
- (g) permit the delegation by the Commissioner of a Division, the Excise Commissioner, or the Collector, to any persons or classes of persons specified in such notification, of any powers conferred or duties imposed upont him by or under this Act.
- 8. (1) The Collector shall, in all proceedings under this Act, be subject to the control of the Excise Com-Control, appeal, and remissioner, and shall, in such matters as the the Local Government may direct, be subject also to the control of the Commissioner of the Division.
- (2) Orders passed under this Act or under any rule made hereunder shall be appealable in such cases to such authorities, and under such procedure, as may be prescribed by rule made nuder section 85, clause (c).
- (3) The "Local Government" may revise any order passed by a Collector, the Excise Commissioner, or the Commissioner of a Division.

CHAPTER III.—IMPORT, EXPORT AND TRANSPORT.

9. (1) No excisable article shall be Restrictions on import. imported unless—

- (a) the Local Government has given permission, either general or special, for its import:
- (b) such conditions (if any) as the Local Government may impose have been satisfied; and
- (c) the duty (if any) imposed under section 27 has been paid, or a bond has been executed for the payment thereof.
- (2) Sub-section (1) shall not apply to any article which has been imported into British India, "if-
 - (i) the duty (if any) imposed on such importation under the Indian Tariff Act, 1894, or the Sea Customs Act, 1878,∥ has been paid, or
 - (ii) a bond has been executed for the payment of such duty."¶

The words "the Board" repealed by Ben. Act VII. of 1914, are omitted here.
 The words "it or" repealed by Ben. Act VII. of 1914 are omitted here.

¹ Substituted for "Board" by Ben. Act VII. of 1914.

Act VIII. of 1894.
Act VIII. of 1878.

T Portion, quoted was substituted by Ben. Act VII. of 1914.

(3) Clauses (a) and (b) of sub-section (1) shall not apply to liquor manufactured in British India, and declared under section 4 to be foreign liquor.

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10. No excisable article shall be ex-Restrictions on export or transport. ported or transported unless—

- (a) the duty (if any) imposed under section 27, or.
- (b) if the article was previously imported, the duty (if any) imposed on its importation under the Indian Tariff Act, 1804* or the Sea Customs Act, 1878,†

has been paid, or a bond has been executed for the payment thereof:

Provided "that the Local Government" # may, subject to such conditions (if any) as it thinks fit to impose, exempt any excisable article from the provisions of this section.

11. The Local Government may, by Power to prohibit import, notification, export, or transport.

- (a) with the previous sanction of the Government of India, prohibit the import or export of any excisable article into or from Bengal or any part thereof, or
- (b) prohibit the transport of any excisable article.
- 12. (1) No excisable article exceeding such quantity as the Local Government may prescribe by noti-Passes for import exfication, either generally or for any speciport, or transport. fied local area, shall be imported, exported, or transported, except under a pass:

Provided that, in the case of duty-paid foreign liquor other than denatured spirit, such passes shall be dispensed with unless the Local Government, by notification, otherwise directs with respect to any local area.

- (2) The passes required by sub-section (1) may be granted by the Collector.
- (3) Such passes may be either general for definite periods and particular kinds excisable articles, or special for specified occasions and particular consignments only.

CHAPTER IV.—MANUFACTURE, POSSESSION, AND SALE.

13. (a) No excisable article shall be License required for maaufacture. manufactured,

(b) no hemp plant (Cannabis sativa) shall be cultivated,

[•] Act VIII. of 1894. † Act VIII. of 1878.

^{\$} Substituted for "Board" by Ben. Act VII. of 1914

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- (c) no portion of the hemp plant (Canabis sativa), from which an intoxicating drug can be manufactured or produced, shall be collected,
 - (d) no liquor shall be bottled for sale,
 - (e) no distillery or brewery shall be worked, and
- (f) no person shall use, keep, or have in his possession any materials, still, utensil, implement, or apparatus whatsover for the purpose of manufacturing any excisable article other than tari,

except under the authority, and subject to the terms and conditions, of a license granted in that behalf by the Collector:

Provided that any tari-producing tree may be tapped, and tari may be drawn from any tree, without a license under this section, by the person in possession of the tree,—

- (i) for the purpose of being used in the manufacture of gur or molasses, or,
- (1a)* for the purpose of being used solely for the preparation of food for domestic consumption, and not—
 - (i) as an intoxicant, or
 - (ii) for the preparation of any intoxicating article, or
 - (iii) for the preparation of any article for sale, or
- (ii) up to a limit of four seers, or the domestic consumption of the said person.

Drawing of tari in notified areas.

14. (1) Notwithstanding anything contained in the proviso to section 13—

- (a) no tari-producing tree shall be tapped, and
- (b) no tari shall be drawn from any tree, in any local area specified in this behalf by the Local Government by notification except under the authority, and subject to the terms and conditions, of a license granted in that behalf by the Collector:
- (2) Provided that, when any exclusive privilege of manufacturing tari has been granted under section 22, the Local Government may declare that the written permission given by the grantee to draw tari shall have the same force and effect as a license granted by the Collector under sub-section (1) of this section:
- (3) Provided also that, in any local area specified by notification under sub-section (1) the Local Government may, by notification, declare that that sub-section shall not apply to trees tapped or tari drawn under such special conditions as the "Excise Commissioner"† may prescribe;

Establishment of distilleries, breweries, or warehouses.

15. (1) The Excise Commissioner may,—

Proviso (ia) was inserted by Ben. Act VII. of 1914.
 Substituted for "Board" by Ben. Act VII. of 1914.

(a) subject to any restrictions imposed by the Local Government, establish, or authorize the establishment Act 5. of, distilleries or breweries in which liquor may be manufactured under a license granted under sec-' tion 13;

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- (b) discontinue any such distillery or brewery;
- (c) establish, or authorize the establishment of, warehouses wherein any excisable article may be deposited and kept without payment of duty; and
- (d) discontinue any such warehouse.
- (2) No distillery brewery, or warehouse as aforesaid shall be established except by, or under the authority of, the Excise Commissioner.
- 16. No person shall, except under the authority, and subject to the terms and conditions, of a license License required for degranted in that behalf by the Collector positing or keeping excisable article in warehouse or deposit or keep any excisable article in other place of storage. any warehouse or other place of storage established, authorized, or continued under this Act.
- 17. No excisable article shall be removed from any distillery, brewery, warehouse, or other place of Payment of duty on restorage licensed, established, authorized, moval from distillery, brewor continued under this Act unless the ery, warehouse, or other place of storage. duty (if any) imposed under section 27 has

been paid, or a bond has been executed for the payment thereof.

Possession of excisable articles not obtained from a licensed vendor.

- 18. (1) No person shall have in his possession any excisable article which has not been obtained from a licensed vendor of the same.
- (2) Sub-section (1) shall not apply to—
 - (a) any excisable article lawfully deposited or kept in a distillery, brewery, warehouse, or other place of storage licensed, established, authorised, or continued under this Act, or
 - (b) any excisable article lawfully in the possession of a licensed vendor of the same, or
 - (c) any excisable article in the possession of a person who has lawfully imported it, or who is authorized by the Collector to possess it, or
 - (d) any foreign liquor in the possession of any common carrier of warehouseman as such, or purchased at a sale authorized by clause (a) of Proviso (3) to section 20, or
 - (e) tari intended to be used in the manufacture of gur or molasses, or

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- (f) tari intended to be used in the manufacture of bread by a person holding a permit to use tari for that purpose, or
- (f)* tari intended to be used solely for the preparation of food for domestic consumption, and not—
 - (i) as an intoxicant, or
 - (ii) for the preparation of any intoxicating article, or
 - (iii) for the preparation of any article for sale, or
- (g) tari, up to a limit of four seers, when in the possession of the person possessing the tree from which it was drawn, and intended to be used for his domestic consumption, or
- (h) intoxicating drugs in the possession of any person licensed to cultivate or collect the plants from which such drugs were produced when such possession is in accordance with the conditions of his license.
- 19. (1) No person, not being licensed to manufacture, cultiPossession of excisable vate, collect, or sell any excisable article, articles generally. shall have in his possession any quantity of any excisable article in excess of such quantity as the "Local Government"† has, under section 5, declared to be the limit of a retail sale, except under a permit granted by the Collector in that behalf.
 - (2) Sub-section (1) shall not apply to—
 - (a) any foreign liquor (other than denatured spirit) which is in the possession of any common carrier or warehouseman as such, or
 - (b) any foreign liquor which has been purchased by any person for his bond fide private consumption, and not for sale, or
 - (c) tari intended to be used in the manufacture of gur or molasses,
 - (d)‡ tari intended to be used solely for the preparation of food for domestic consumption, and not—
 - (i) as an intoxicant, or
 - (ii) for the preparation of any intoxicating article, or
 - (iii) for the preparation of any article for sale.
- (3) A licensed vendor shall not have in his possession at any place other than that authorized by his license any quantity of any excisable article in excess of such quantity as the "Local

^{*} Clause (f) was inserted by Ben. Act VII. of 1914. † Substituted for "Board" by Ben. Act VII. of 1914.

Clause (d) was inserted by Ben. Act VII. of 1914.

Government"* has, under section 5, declared to be the limit 1909. of a retail sale, except under a permit granted by the Collector Act 5. in that behalf.

- (4) Notwithstanding anything contained in the foregoing subsections, the Local Government may by notification, prohibit the possession by any person or class of persons, either in Bengal, or in any specified local area, of any excisable article, either absolutely, or subject to such conditions as it may prescribe.
- 20. No excisable article, and no portion of the hemp plant (Cannabis sativa) from which an intoxi-License required for sale. cating drug can be manufactured or produced, shall be sold except under the authority, and subject to the terms and conditions, of a license granted in that behalf by the Collector:

Provided, as follows-

- (1) a license for sale in more than one district shall be granted only by the Excise Commissioner "or by a Collector specially authorized in that behalf by the Excise Commissioner:"†
- (1a) a license for sale granted under the Excise Law in force in any other Province may, on such conditions as may be determined by the Excise Commissioner, be deemed to be a license granted under this Act;
- (2) a cultivator or owner of any hemp plant (Cannabis sativa) may sell, without a license, those portions of the plant from which an intoxicating drug can be manufactured or produced, to any person licensed under this Act to deal in the same, or to any officer whom the Excise Commissioner may authorize to purchase or receive the same;
- (3) no license shall be required for any of the following sales, namely—
 - (a) the sale of foreign liquor lawfully procured by any person for his private use-when such sale is made by such person himself or on his behalf upon his quitting a station, or on behalf of his representatives in interest after his decease:
 - (b) the sale of tari, "lawfully possessed" t by a person in possession of the tree from which it was drawn, to a person licensed under this Act to manufacture or sell tari;

Substituted for "Board" by Ben, Act VII. of 1914.
 Portion quoted was inserted by Ben. Act VII. of 1914.

[&]quot; Proviso (1a) was inserted by Ben. Act VII, of 1914.

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- (c) the sale of tari "lawfully possessed and" intended to be used in the manufacture of gur or molasses; or
- (d) the sale of tare intended to be used in the manufacture of bread to a person holding a permit to use tare for the purpose of making bread; "or
- (e) the sale of tar: lawfully possessed and intended to be used solely for the preparation of food for domestic consumption, and not—
 - (i) as an intoxicant, or
 - (ii) for the preparation of any intoxicating article, or
 - (iii) for the preparation of any article for sale."
- 21. Within the limits of any military cantonment, and within Manufacture and sale of liquor in or near canton-Government may in any case prescribe, ments.

 Commanding Officer.

Grant of exclusive privilege of manufacture and sale of country liquor or intoxicating drugs.

- 22. (1) The Local Government may grant to any person, on such conditions and for such period as it may think fit, the exclusive privilege—
- (a) of manufacturing or supplying by wholesale, or
- (b) of manufacturing and supplying by wholesale, or
- (c) of selling, by wholesale or retail, or
- (d) of manufacturing or supplying by wholesale, and selling retail, or
- (e) of manufacturing and supplying by wholesale, and selling retail,

any country liquor or intoxicating drug within any specified local area:

Provided that public notice shall be given of the intention to grant any such exclusive privilege, and that any objections made by any person residing within the area affected shall be considered before an exclusive privilege is granted.

- (2) No grantee of any privilege under sub-section (1) shall exercise the same unless or until he has received a license in that behalf from the Collector "or the Excise Commissioner."
- 23. (1) A grantee of an exclusive privilege under section 22

 Transfer of exclusive prishall not let or assign the same or any
 vilege.

 portion thereof unless he is expressly authorised, by a condition made under that section, to do so.

Portion quoted was inserted by Ben. Act VII. of 1914.
 Portions quoted were added by Ben. Act VII. of 1914.

[‡] Words quoted were added by Ben. Act VII. of 1914.

(2) Such letting or assignment shall be made only to a person 1909. approved by the Collector or (if the letting or assignment extends to more than one district) the Excise Commissioner.

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(3) The lessee or assignee shall not exercise any rights as such unless and until the Collector has, upon his application, granted him a license to do so.

Maintenance and use of measures, weights, and in-struments by licensed, manufacturers and vendors.

24. Every person who manufactures or sells any excisable article under a license granted under this Act—

- (a) shall supply himself with such measures, weights, and instruments as the Excise Commissioner may prescribe, and shall keep the same in good condition; ' and,
- (b) when such measures, weights, and instruments have been so prescribed, shall, on the requisition of any Excise Officer duly empowered by the Collector in this behalf, measure, weigh, or test any excisable article in his possession, at such time and in such manner as such Officer may require.

Employment of children or women by licensed ven-

25. (1) No person who is licensed to sell foreign liquor or country spirit for consumption on his premises shall,

during the hours in which such premises are kept open for

employ or permit to be employed, either with or without remuneration, any child under the age of fourteen years,

in any part of such premises in which such liquor or spirit is consumed by the public.

(2) No person who is licensed to sell foreign liquor for consumption on his premises shall, without the previous written permission of the "Excise Commissioner,"*.

during the hours in which such premises are kept open for business,

employ or permit to be employed, either with or without remuneration, any woman,

in any part of such premises in which such liquor is consumed by the public.

- (3) The Local Government may by notification, declare that sub-section (2) shall apply also, in any specified area, to persons licensed to sell country spirit for consumption on their premises.
- (4) Every permission granted under sub-section (2) shall be endorsed on the lisense, and may be modified or withdrawn.

^{*} Substituted for "Board" by Ben, Act VII. of 1914.

- 26. (1) The District Magistrate or a Sub-divisional Magistrate

 Power to close shops temor (in Calcutta) the Chief Presidency Magisporarily.

 trate or the Commissioner of Police, may, by
 notice in writing to the licensee, require that any shop in which any
 excisable article is sold shall be closed at such times or for such
 period as such Magistrate or Commissioner of Police may think
 necessary for the preservation of the public peace.
- (2) If any riot or unlawful assembly is apprehended or occurs in the vicinity of any shop in which any excisable article is sold, any Magistrate, or any Police-officer above the rank of constable, who is present, may require such shop to be kept closed for such period as he may think necessary.
- (3) When any Magistrate or Police-officer makes a direction under ssub-section (1) or sub-section (2), he shall forthwith inform the Collector of his action and his reasons therefor.

CHAPTER V.-DUTY.

Power to impose duty on import, export, transport, and manufacture.

- 27. (1) A duty, at such rate or rates as the Local Government may direct, may be imposed, either generally or for any specified local area, on—
- (a) any excisable article imported, or
- (b) any excisable article exported, or
- (c) any excisable article transported, or
- (d) any excisable article (other than tari) manufactured under any license granted in respect of clause (a) of section 13, or
- (e) any hemp plant (Cannabis sativa) cultivated, or any portion of such plant collected, under any license granted in respect of clause (b) or clause (c) of section 13, or
- (f) any excisable article manufactured in any distillery or brewery licensed, established authorized, or continued under this Act.

Explanation.—Duty may be imposed on any article under this sub-section at different rates according to the places to which such article is to be removed for consumption, or according to the varying strengths and quality of such article.

- (2) A duty, at such rate or rates as the Local Government may direct, may be imposed, either generally or for any specified local area, on any tari drawn under any license granted under section 14, sub-section (1).
 - (3) Notwithstanding anything contained in sub-section (1)-

(i) duty shall not be imposed thereunder on any article which has been imported into British India "if—

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(1) the duty (if any) imposed on such importation under the Indian Tariff Act, 1894,* or the Sea Customs Act, 1878† has been paid, or

(2) a bond has been executed for the payment of such duty;"‡ and

- (ii) any duty imposed thereunder on beer or denatured spirit manufactured in India shall, unless the Local Government, with the previous sanction of the Government of India, otherwise, directs, be equal to the duty to which beer or denatured spirit, as the case may be, when imported into British India by sea, is liable under the Indian Tariff Act, 1894,* or the Sea Customs Act, 1878.†
- 28. Subject to any rules made under section 86, clause (12).

 Ways of levying such any duty imposed under section 27 may be levied in any of the following ways—
 - (a) on an excisable article imported—
 - (i) by payment (upon or before importation) in Bengal, or in the province or territory from which the article is brought, or
 - (ii) by payment upon issue for sale from a warehouse established, authorized, or continued under this Act;
 - (b) on an excisable article exported-

by payment in Bengal or in the province or territory to which the article is sent;

- (c) on an excisable article transported,—
 - (i) by payment in the district from which the article is sent, or
 - (ii) by payment upon issue for sale from a warehouse established, authorized, or continued under this Act;
- (d) on intoxicating drugs manufactured, cultivated, or collected,—
 - (i) by a rate charged upon the quantity manufactured under a license granted in respect of the provisions of section 13, clause (a), or issued for sale from a warehouse established, authorized, or continued under this Act, or
 - (ii) by "a rate assessed on the area covered by, or on the quantity or outturn of, the crop cultivated or collected under," a license granted in respect of the provisions of section 13, clause (b) or clause (c);

^{*} Act VIII. of 1894. † Act VIII. of 1878.

[†] Words quoted were substituted by Ben. Act VII. of 1914.

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- (e) on spirit or beer manufactured in any distillery or brewery licensed, establised, authorized, or continued under this Act,—
 - (i) by a rate charged upon the quantity produced in, or issued from, the distillery or brewary, as the case may be, or issued for sale from a warehouse established, authorized, or continued under this Act, or
 - (ii) in accordance with such scale of equivalents, calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the Local Government may prescribe; and
- (f) on tari drawn under a license granted under section 14, sub-section (i), by a tax on each tree from which the drawing of tari is permitted:

Provided that, where payment is made upon the issue of an excisable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from such warehouse:

Provided, also, that no tax shall be levied in respect of any tree from which tari is drawn only for the manufacture of gur or molasses, and under such special conditions as the "Excise Commissioner" may prescribe.

29: Instead of, or in addition to, any duty leviable under this Payment for grant of ex. Act, the Local Government may accept clusive privilege. payment of a sum in consideration of the grant of any exclusive privilege under section 22.

CHAPTER VI.-LICENSES, PERMITS, AND PASSES.

Preparation of list of places for which it is proposed to grant for the retail sale of spirit.

Preparation of list of places for the retail sale of spirit are licenses for the retail sale of spirit.

In a form prescribed by the "Excise Commissioner"* showing what licenses it is proposed to grant for the retail sale of spirit for consumption on the vendors' premises for the next period of settlement.

Publication of such list.

81. The Collector shall-

(a) cause to be conspicuously affixed, upon the site of each shop referred to in the said list, a notice to the effect that it is proposed to grant a license for the retail sale of spirit thereat, or in the vicinity, for the next period of settlement;

^{*} Substituted for "Board" by Ben, Act VII. of 1914.

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- (b) if any site referred to in the said list is not at the time used for the retail sale of spirit cause a notice, to the effect that it is proposed to grant a license for the retail sale of spirit thereat, or in the vicinity, for the next period of settlement, to be proclaimed in the locality by beat of drum;
- (c) send to the Chairman of each Municipality an extract reproducing so much of the said list as relates to shops in the Municipality; and
- (d) cause the said list, or any portion thereof, to be published in such other methods (if any) as may be prescribed by rule made under section 85, clause (j).
- (2) When an extract is sent to the Chairman of any Municipality under clause (c) of sub-section (1), he shall—
 - (i) cause a copy of the extract to be conspicuously affixed at the central office of the Municipality; and
 - (ii) send to each member of each Ward Committee (if any) a copy of so much of the extract as relates to shops situated in his Ward.
- 32. The list mentioned in section 30 shall be prepared, and Time for preparation and shall be published under section 31, at such publication of such list. time as may be prescribed by rule made in this behalf under section 85, clause (j).
- 33. (1) Objections to any proposal contained in any list pre-Submission of objections pared under section 30 may be received, at and opinions to Collector. any time prior to the date prescribed by rule made in this behalf under section 85, clause (j), from—
 - (a) persons paying municipal rates and residing in any Municipality to which such proposal relates, or (if any such Municipality is divided into Wards) in the Ward to which such proposal relates, or in any Ward adjoining such Ward; or
 - (b) (in the case of shops not situated in any Municipality) persons owning or occupying land or residing in the vicinity of the shop to which such proposal relates; or
 - (c) the District Magistrate.
- (2) Such objections must be submitted to the Collector, or, in any Municipality, either to the Chairman of the Municipality, or to the Collector.
- (3) Every Chairman of a Municipality to whom an extract has been sent under section 31, clause (c), shall send to the Collector, by a date prescribed by rule made in this behalf under section 85, clause (j),—
 - (i) all objection (if any) to proposals contained in the extract which may be received by the Chairman from persons paying municipal rates before that date, and

- (ii) any opinion which the Chairman or the Municipal Commissioners may wish to record on the said proposals.
- Grant of licenses by Collector. and submission of list, objections, and opinions submitted under section 33, the Collector shall consider the same, and shall, if necessary, revise the said list, and shall decide for what places licenses for the retail sale of spirit shall be granted, and may, in his discretion, grant licenses accordingly.
- (2) The Collector shall then forthwith submit the said list, as so revised, and the said objections and opinions, and his own opinion,—
 - (a) in the case of shops outside the Calcutta district, to the Commissioner of the Division for transmission to the Excise Commissioner, and
 - (b) in the case of shops in the Calcutta District, to the Excise Commissioner.
- (3) The Commissioner of the Division shall consider the list, objections, and opinions so sent to him, and, shall forward them, with his own opinion and recommendations (if any), to the Excise Commissioner.
- 35. The Excise Commissioner shall consider the list, objections
 Finality of decision of Ex. and opinions so sent to him, and may
 cise Commissioner of Board. modify or annul any order passed or license
 granted by the Collector; and, notwithstanding anything contained
 in section 8, his orders shall be final:

Provided that, if there be any difference of opinion between-

- (a) the Excise Commissioner and
- (b) the Commissioner of a Division, the Chairman of the Corporation of Calcutta or the Corporation of Calcutta [if the opinion of the Municipal Commissioners of Calcutta, referred to in sub-clause (ii) of section 33, has been recorded at a meeting of the Corporation],

the matter shall be referred by the Excise Commissioner to the "Local Government"* whose decision shall be final.

36. The provisions of sections 30 to 35 as to licenses for the Application of sections 30 retail sale of spirit shall apply also in resto 35 to licenses for retail pect of licenses for the retail sale, in any sale of excisable articles local area specified in any order made by the "Local Government" in this behalf, of any other excisable article specified in such order.

Exemption of certain licenses from section 30 to 36.

37. Sections 30 to 36 shall not apply, in the case of any license which it is proposed to grant—

^{*} Substituted for "Board" by Ben. Act. VII, of 1914.

(a) to any person, for the retail sale of any excisable article during any period not exceeding six months; or

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- (b) to any person, for the retail sale of any denatured spirit;
- (c) to any person, for the retail sale of any excisable article in substitution for a license which has been cancelled or surrendered before the expiration of the period for which it was granted; or
- (d) to any medical practitioner, chemist, druggist, apothecary, or keeper of a dispensary, for the retail sale of any excisable article for medicinal purposes.

Fees for, terms, conditions, and form of, and duration of, licenses, permits, and passes

38. (1) Every license, permit, or pass granted under this Act—.

- (a) shall be granted—
 - (i) on payment of such fees (it any), and
 - (11) subject to such restrictions and on such conditions, and
- (b) shall be in such form and contain such particulars, as the "Local Government" may direct.
- (2) Every license, permit, or pass under this Act shall be granted for such period (if any) as may be prescribed by rule made by the Local Government under section 85, clause (e).
 - 39. [Repealed by Ben. Act VII. of 1914.]
- Counterpart agreement by require the grantee to execute a counterposit.

 Counterpart agreement by require the grantee to execute a counterpart agreement in conformity with the tenor of his license, and to give such security for the performance of such agreement, or to make such deposit in lieu of security, as such authority may think fit.
- 41. (1) No license granted under this Act shall be deemed to Technical defects, irregube invalid by reason merely of any technical defect, irregularity, or omission in the license, or in any proceedings taken prior to the grant thereof.
 - (2) The decision of the Excise Commissioner or (where a reference is made to the "Local Government" under section 35) the Board, as to what is a technical defect, irregularity, or omission, shall be final.
 - 42. (1) Subject to such restrictions as the Local Government Power to cancel or sus- may prescribe, the authority who granted pend license, permit, or pass under this Act may cancel or suspend it—

^{*} Substituted for " Board" by Ben, Act VII. of 1914.

- (a) if it is transferred or sublet by the holder thereof without the permission of the said authority; or
- (b) if any duty or fee payable by the holder thereof, be not duly paid; or,
- (c) in the event of any breach by the holder thereof, or by any of his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions thereof; or
- (d) if the holder thereof is convicted of any offence punishable under this Act or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence, or of any offence punishable under the Merchandise Marks Act, 1889,* or under any section which has been introduced into the Indian Penal Code† by section 3 of that Act; or
- (e) if the holder thereof is punished for any offence referred to in clause (8) of section 167 of the Sea Customs Act, 1878;† or
- (f) where a license, permit, or pass has been granted on the application of the holder of an exclusive privilege granted under section 22, on the requisition in writing of such holder; or
- (g) if the conditions of the license, permit, or pass provide for such cancellation or suspension at will
- (2) When a license, permit, or pass held by any person is cancelled under clause (a), clause (b), clause (c), clause (d), or clause (e) of sub-section (1), the authority aforesaid may cancel any other license, permit, or pass granted to such person under this Act, or under any other law for the time being in force relating to Excise or under the Opium Act, 1878.§
- (3) The holder of a license, permit, or pass shall not be entitled to any compensation for its cancellation or suspension under this section, or to the refund of any fee paid or deposit made in respect thereof.
- 43. (1) Whenever the authority who granted any license under this Act considers that the license should be withdrawn for any cause other than those specified in section 42, it shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may withdraw the license either—
 - (a) on the expiration of fifteen days' notice in writing of its intention to do so or,
 - (b) forthwith, without notice.

^{*} Act IV. of 1889. † Act XLV. of 1860.

[‡] Act VIII. of 1878. § Act 1. of 1878.

(2) If any license be withdrawn under clause (b) or sub-section (1), the said authority shall, in addition to remitting such sum as aforesaid, pay to the licensee such further sum (if any) by way of compensation as the Excise Commissioner may direct.

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- (3) When a license is withdrawn under sub-section (1), any fee paid in advance, or deposit made, by the licensee in respect thereof, shall be refunded to him after deducting the amount (if any) due to the Government.
- 44. (1)* Any holder of a license granted under this Act to sell an excisable article may unless his license is liable to cancellation or suspensiounder section 42, surrender the same on—
 - (i) the expiration of one month's notice in writing given by him to the Collector of his intention to surrender it, and
 - (ii) payment of the fees payable for the license for the whole period for which it would have been current but for such surrender:

Provided that, if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a license, he may remit to the holder thereof the sum so payable on surrender, and any fees paid in advance, or any portion of such sum or fees.

(2) Sub-section (1) shall not apply in the case of a license for the sale of any country liquor or intoxicating drug in the exercise of an exclusive privilege granted under section 22.

Explanation.—The words "holder of a license," as used in this section, include a person whose tender or bid for a license has been accepted, although he may not actually have received the license.

44A.† No person to whom a license has been granted under

Bar to right of renewal this Act shall have any claim to the renewal and to compensation. of such license, or save as provided in section 43, any claim to compensation on the determination thereof.

CHAPTER VII.—DEPARTMENTAL MANAGEMENT OR TRANSFER.

Power of Collector to take person to whom an exclusive privilege has grants under management, been granted under section 22, contravenes or to transfer them.

any provision of this Act or any rule made hereunder, or makes default in complying with any condition imposed upon him by such license or privilege, or

if any holder of a license granted under this Act surrenders the same under section 44.

† Section 44A was inserted by Ben. Act VII. of 1914.

^{*} Sub-section (1) was newly substituted by Ben. Act VII. of 1914.

the Collector may (in the case of a license, after the cancellation or surrender thereof, and, in the case of an exclusive privilege, at any time)—

(a) take the grant under management at the risk and loss of the person to whom it was made, or

(b) transfer the unexpired portion of the grant, at the risk and loss of the said person, to any other person.

CHAPTER VIII.—OFFENCES AND PENALTIES.

Penalty for unlawful import, export transport, manufacture, possession, sale, etc. 46. If any person, in contravention of this Act, or of any rule, notification, or order made, issued, or given, or license, permit, or pass granted, under this Act,

- (a) imports, exports, transports, manufactures, possesses, or sells any excisable article, or
- (b) cultivates any hemp plant (Cannabis sativa), or
- (c) collects or sells any portion of the hemp plant (Cannabis sativa) from which an intoxicating drug can be manufactured or produced, or
- (d) bottles any liquor for purposes of sale, or
- (e) works any distillery or brewery, or
- (1) uses, keeps, or has in his possession any materials, still, utensil, implement, or apparatus whatsoever for the purpose of manufacturing any excisable article other than tari, or
- (g) establishes any distillery, brewery, or warehouse, or
- (h) removes any excisable article from any distillery, brewery, warehouse, or other place of storage licensed, established, authorized, or continued under this Act,

he shall be liable to imprisonment for a term which may extend to six† months, or to fine which may extend to one thousand rupees, or to both:

* Provided that, if any person is convicted under this section of any offence committed in respect to cocaine he shall be liable to imprisonment for a term which may extend to one year, or to fine which may extend to two thousand rupees, or to both.

Note.—See 18 C. W. N. 1023.

47. In prosecutions under section 46, it may be presumed,
Presumption as to offence
where possession is not
satisfactorily accounted for.

unless and until the contrary is proved, that
the accused person has committed an offence
punishable under that section in respect of—

(a) any excisable article, or

^{*} The proviso to s. 46 was substituted by Ben. Act VII. of 1914. † Substituted for "three" by Ben. Act VII. of 1914.

The proviso to s. 45 was repealed by Ben. Act VII. of 1914.

(b) any still, utensil, implement, or apparatus whatsoever for the manufacture of any excisable article other than tari, 5

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(c) any materials which have undergone any process towards the manufacture of an excisable article, or from which an excisable article has been manufactured,

for the possession of which he fails to account satisfactorily.

48.* If any person alters or attempts to alter any denatured

Penalty for altering or spirit, whether manufactured in British India

attempting to alter any or not, with the intention that such spirit

may be used for human consumption, whether

as beverage, or internally as a medicine, or in any other way what
soever, by any method whatsoever,

or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made.

he shall be liable to imprisonment for a term which may extend to six months, or to fine which may extend to one thousand rupees, or to both

NOTE.

To support a conviction under this section two elements must be established namely, first, that the spirit is denatured spirit and, secondly, that the accused has attempted to render such spirit fit for human₂consumption.—18 C. W. N. 486.

- Presumption as to offence person is proved to have been in possession under section 48, in certain of any spirit which is, or contains, or has been derived from denatured spirit, and in respect of which any such alteration or attempt as is referred to in section 48 has been made, it may, from the mere fact of such possession, be presumed, unless and until the contrary is proved, that such person—
 - (i) has himself made such alteration or attempt, or
 - (ii) knows or has reason to believe that such alteration or attempt has been made.

48B.‡ In any prosecution under this Act it may be presumed,
Presumption as to any unless and until the contrary is proved that
spirit which contains any quantity of
denaturant.

any denaturant is, or has been derived
from, denatured spirit.

Penalty for adulteration by licensed manufacturer or vendor or his servant. 49. If any licensed manufacturer or licensed vendor, or any person in his employ, and acting on his behalf,

^{*} Sec. 48 was newly substituted by Ben. Act VII. of 1914. † Sec. 48A has been inserted by Ben. Act. VII. of 1914.

[‡] Sec. 48B and the portion quoted in sec. 49 have been inserted by Ben. Act VII. of 1914.

mixes, or permits to be mixed, with any excisable article manufactured, sold, or kept or exposed for sale, by him any noxious drug or any article prohibited by rule made under section 86, clause (9) sub-clause (1), and such mixing does not amount to an offence punishable under section 272 of the Indian Penal Code,* "or has in his possession any excisable article in respect of which such admixture has been made"

he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or to both.

Penalty for fraud by licensed manufacturer or censed manufacture or licensed vendor, or any person in his employ, and acting on his behalf,

- (a) sells, or keeps or exposes for sale, as foreign liquor, any liquor which he knows or has reason to believe to be country liquor, and such sale does not amount to an offence punishable under section 417 or section 418 of the Indian Penal Code,* or
- (b) marks any bottle, case, package, or other receptacle containing country liquor, or the cork of any such bottle, or

deals with any bottle, case, package, or other receptacle containing country liquor,

with the intention of causing it to be believed that such bottle, case, package, or other receptacle contains foreign liquor,

and such marking or dealing does not amount to an offence punishable under section 482 of the said Indian Penal Code,*

he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both.

Penalty for certain unlawful acts of licensed vendors or their servants.

51 (1) If any licensed vendor, or any person in his employ, and acting on his behalf,—

- (a) in contravention of section 25, employs or permits to be employed, in any part of his licensed permises referred to in that section, any child or woman; or
- (b) sells any excisable article to a person who is drunk or intoxicated; or
- (c) sells or delivers any spirit or intoxicating drug to any child apparently under the age of fourteen years, whether for consumption by such child, or by any other person, and whether for consumption on or off the premises of such vendor; or

^{*} Act XLV. of 1860.

[†] Sec. 48B and the portion quoted in sec. 49 have been inserted by Ben. Act VII. of 1914.

(d) permits drunkenness, intoxication, disorderly conduct, or gaming on the premises of such vendor; or

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(e) permits any persons whom he knows, or has reason to believe, to have been convicted of any non-bailable offence, or who are reputed prostitutes, to meet, or any such person to remain, on the premises of such vendor, whether for the purposes of crime or prostitution or not,

he shall be liable to fine which may extend to five hundred rupees.

- (2) When any licensed vendor, or any person in his employ, and acting on his behalf, is charged with permitting drunkenness or intoxication on the premises of such vendor, and it is proved that any person was drunk or intoxicated on such premises, it shall lie on the person charged to prove that the vendor and the persons employed by him took all reasonable steps for preventing drunkenness or intoxication on such premises.
- Penalty for possession of excisable article in respect of which an offence has been committed.

 Sion any quantity of any excisable article, knowing the same to have been unlawfuly imported, transported, or manufactured, or knowing that the prescribed duty has not been paid thereon, he shall be liable to imprisonment for a term which may extend to "six"* months or to fine which may extend to one thousand rupees, or to both.
- 53. (1) If any chemist, druggist, apothecary, or keeper of a Penalty for consumption dispensary allows any excisable article, in chemist's shop, etc. which has not been bond fide medicated for medicinal purposes, to be consumed on his business premises by any person not employed in his business, he shall be liable to imprisonment for a term which may extend to three months or to fine which may extend to one thousand rupees, or to both.
- (2) If any person not employed as afresaid consumes any such excisable article on such permises, he shall be liable to fine which may extend to two hundred rupees.
- 54. If any holder of a license, permit, or pass granted under Penalty for certain acts this Act, or any person in his employ, and by licensee or his servant. acting on his behalf,—
 - (a) fails to produce such license, permit, or pass on the demand of any officer empowered, by the Local Government, by notification, to make such demand, or
 - (b) in any case not provided for in section 45, wilfully contravenes any rule made under section 85, or section 86, or

Word quoted has been substituted by Ben. Act VII. of 1914.

(c) wilfully does any act, in breach of any of the conditions of the license, permit, or pass, for which a penaly is not prescribed elsewhere in this Act,

he shall be liable, in case (a), to fine which may extend to two hundred rupees, and, in case (b) or case (c), to fine which may extend to five hundred rupees.

- 55. (1) When any excisable article has been "imported, Manufacture, sale, or exported, transported,"* manufactured or possession by one person sold or is possessed by any person on account of another. account of any other person, and such other person knows or has reason to believe that such "import, export, transport"* manufacture or sale was, or that such possession is, on his account, the article shall, for the purposes of this Act, be deemed to have been "imported, exported, transported,"* manufactured or sold by, or to be in the possession of, such other person.
- (2) Nothing in sub-section (1) shall absolve any person who "imports, exports, transports,"* manufactures, sells, or has possession of an excisable article on account of another person from liability to any punishment under the Act for the unlawful "import, export, transport,"* manufacture, sale, or possession of such article.
- 56. When any offence punishable under section 46, section Criminal liability of 11. 49, section 50, section 51, section 52, or censee for acts of servant section 54 is committed by any person in the employ, and acting on behalf, of the holder of a license, permit, or pass granted under this Act, such holder shall also be punishable as if he had himself committed the offence, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence.
- 57. No person other than the actual offender shall be punished Imprisonment under section 55 or section 56 with imprisonment except in default of payment of a fine.

Penalty on Excise Officer making vexatious search, seizure, detention, or arrest, or refusing duty, or being guilty of cowardice.

58. If any Excise Officer,—

- (a) without reasonable grounds of suspicion, searches, or causes to be searched, any place under colour of exercising any power conferred by this Act, or .
- (b) vexatiously and unnecssarily seizes any property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or

^{*} Words quoted were inserted by Ben. Act VII. of 1914.

(c) vexatiously and unnecessarily detains, searches, or ar- 1909. rests any person, or

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- (d) without lawful excuse, ceases or refuses to perform, or withdraws himself from, the duties of his office, unless expressly allowed to do so in writing by the Collector, or unless he has given to his immediate superior two months' notice in writing of his intention to do so, or
- (e) is guilty of cowardice,

he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both.

- 59. If any person is convicted of any act in contravention of any of the provisions of this Act or of any Penalty for offences not rule, notification, or order made, issued, or otherwise punishable. given under this Act, for which a penalty is not prescribed elsewhere in this Act, he shall be liable to fine which may extend to two hundred rupees.
- 60. Every proceeding under this Act before a Collector or before any officer of such rank as the Local Penalty for contempt of Government may, by notification prescribe, Court. who is exercising powers of a Collector, shall be deemed to be a "judicial proceeding" within the meaning of section 228 of the Indian Penal Code.*
- 61. Whoever attempts to commit any offence punishable under Penalty for attempt to this Act shall be liable to the punishment commit offence. provided for such offence.

Note.-Vide 18 C. L. J. 514=18 C. W. N. 309.

- 62. If any person, after having previously been convicted of an offence punishable under section 46, Enhanced punishment "section 48,"† section 52, or section 53, or after previous conviction. under similar provisions in any enactment repealed by this Act, "or in the Eastern Bengal and Assam Excise Act 1910" t subsequently commits and is convicted of an offence punishable under any of those sections he shall be liable to twice the punishment which might be imposed on a first conviction under this Act:
- † Provided that nothing in this section shall prevent any offence, which might otherwise have been tried summarily under Chapter XXII. of the Code of Criminal Procedure, 1898, from being so tried.
- 63. (1) Whenever an offence has been committed which is punishable under this Act, the excisable What things are liable to article, materials, still utensil, implement, confiscation.

^{*} XLV. of 1860.

[†] The words and figures quoted in section 62 and the proviso thereto were inserted by Ben. Act VII. of 1914.

and apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation.

(2) Any excisable article lawfully imported, transported, manufactured, had in possession, or sold along with, or in addition to, any excisable article which is liable to confiscation under subsection (1).

and the receptacles, packages, and coverings in which any such excisable article as first aforesaid, or any such materials, still, utensil, implement, or apparatus as aforesaid, is found.

and the other contents, if any, of such receptacles or packages, and the animals, carts, vessels, rafts, or other conveyances used in carrying the same,

shall likewise be liable to confiscation:

Provided that no animal, cart, vessel, raft, or other conveyance as aforesaid shall be liable to confiscation unless the owner thereof is proved to have been implicated in the commission of the offence.

- 64. (1) When, in any case tried by him, the Magistrate de-Confiscation by Magis- cides that anything is liable to confiscation under section 63, he may either order confiscation, or give the owner of such thing an option to pay, in lieu of confiscation, such fine as the Magistrate thinks fit.
- (2) Whenever anything is liable to confiscation under section 63, and the offender or the person entitled to possession is not known or cannot be found, the case shall be inquired into and determined by the Collector, who may order confiscation:

Provided that no such order shall be made until the expiration of "two months" from the date of seizing the thing intended to be confiscated, or without hearing any person who may claim any right thereto and the evidence (if any) which he produces in support of his claim:

Provided, further, that, if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that its sale would be for the benent of its owner, the Collector may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

- 65. (1) The Collector, or any Excise Officer specially em-Power to compound offences, and to release property liable to confiscation. powered by the Local Government in this behalf not below the rank of Deputy Collector "or Superintendent of Excise."†
 - (a) may accept, from any person whose license, permit, or pass is liable to be cancelled or suspended under

^{*} The words quoted were substituted for the words "one month" by Ben. Act VII. of 1914.
† Words quoted were inserted by Ben. Act VII. of 1914.

clause (a), clause (b), or clause (c) of section 42, or who is reasonably suspected of having committed an offence punishable under "any section of this Act other than section 58"* payment of a sum of money not exceeding two hundred rupees in lieu of such cancellation or suspension, or by way of composition for such offence, as the case may be, and,

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- (b) in any case in which any property has been seized as being liable to confiscation under section 63, may, at any time before the Magistrate has passed an order under section 64, sub-section (1), release the property on payment of any sum not exceeding the value thereof as estimated by the Collector or such Excise Officer.
- (2) When the payments referred to in sub-section (1) have been duly made, the accused person, if in custody, shall be discharged, and the property seized (if any) shall be released; and no further proceedings shall be taken against such person or property.

CHAPTER IX.—DETECTION, INVESTIGATION, AND TRIAL OF OF-FENCES, AND PROCEDURE.

Power to enter and inspect, and power to test namely—
and seize measures, etc.

66. Any of the following officers,

- (a) the Excise Commissioner, or
- (b) a Collector, or
- (c) any Excise Officer not below such rank as the Local Government may, by notification, prescribe,

may, subject to any restrictions prescribed by the Local Government by rule made under section 85,—

- (1) enter and inspect, at any time by day or night, any place in which any licensed manufacturer carries on the manufacture of or stores any excisable article; and
- (ii) enter and inspect, at any time during which the same may be open, any place in which any excisable article is kept for sale by any licensed person; and
- (iia) + examine the accounts and registers maintained in any such place as aforesaid; and
- (iii) examine, test, measure, or weigh any materials, stills, utensils, implements, apparatus, or excisable article found in any such place as aforesaid; and

^{*} Words and figures quoted were substituted for the words and figures " section 49, section 51, section 54 or section 59" by Ben. Act VII of 1914.
† Clause (fig.) was inserted by Ben. Act VII, of 1914.

(iv) examine or test and seize any measures, weights, or testing instruments, found in any such place as aforesaid, which he has reason to believe to be false.

Power to arrest without warrant, to seize articles 67. Any of the following persons, liable to confiscation, and namely—to make searches.

- (a) any officer of the Excise, Police, Salt, Customs, Opium, or Land-revenue Department, or
- (b) any person empowered by the Local Government in this behalf by notification,

may, subject to any restriction prescribed by the Local Government by rule made under section 85,—

- (i) arrest without warrant any person found committing an offence punishable under section 46, section 48, section 52, or section 53; and
- (ii) seize and detain any article which he has reason to believe to be liable to confiscation under this Act or any other law for the time being in force relating to the excise-revenue; and
- (iii) detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle, or covering in or upon which, he may have reasonable cause to suspect any such article to be.

Note.—See 41 C. 836=18 C. W. N. 918.

- 68. The Collector "or any Magistrate empowered to try Power of Collector to offences punishable under this Act" may issue warrant of arrest. issue a warrant for the arrest of any person whom he has reason to believe to have committed "or abetted the Commission of "* any offence punishable under section 46, section 48, section 52, or section 53.
- 69. If any Collector or "any Magistrate empowered to try Power to issue search offences punishable under this Act,"† upon information received, and after such inquiry (if any) as he thinks necessary, has reason to believe that any offence punishable under section 46, section 48, section 52, or section 53 has been or is likely to be committed, "or abetted,"*

he may issue a warrant to search for any excisable article, material, still, utensil, implement, or apparatus in respect of which the alleged offence has been or is likely to be committed " or abetted" " or any document which throws or is likely to throw any light on the alleged offence."*

^{*} Words quoted were inserted by Ben. Act VII. of 1914.
† Words quoted were substituted for the word "Magistrate" by Ben. Act VII. of 1914.

Power of Collector or Magistrate to arrest or search without issuing a warrant.

69A.* The Collector, or any Magistrate empowered to try offences punishable under this Act, may at any time-

- (a) 'arrest, or direct the arrest in his presence of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant under section 68, or
- (b) search, or direct a search to be made in his presence of, any place for the search of which he is competent to issue a search-warrant under section 69.
- 70. Whenever any Excise Officer not below such rank as the Local Government may, by noti-Power to search without fication, prescribe, has reason to believe that an offence, punishable under section 46, section 48, section 52, or section 53, has been, is being, or is likely to be, committed, "or abetted," and that a search-warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence,

he may, after recording the grounds of his belief, at any time by day or night, enter and search any place, and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and

may detain and search, and, if he thinks proper, arrest, any person found in such place whom he has reason to believe to have committed "or abetted" any such offence as aforesaid.

- 71. (1) Every officer of the Police, Salt, Customs, Opium, Information and aid to and Land-revenue Departments, and every Excise Officers. officer employed by "a body of Port Commissioners" shall be bound, subject to any rules made under section 85, clause (1), to give immediate information to an Excise Officer of all branches of any of the provisions of this Act which may come to his knowledge.
- (2) Every officer referred to in sub-section (1) and every village-chaukidar and daffadar shall be bound subject to any rules made under section 85, clause (1), to give reasonable aid to any Excise Officer in carrying out the provisions of this Act, or of any rule, notification, or order made, issued, or given under this Act, upon request made by such Officer.
- 72. Whenever any excisable article is manufactured, or any hemp plant (Cannabis sativa) is cultivated, Duty of owners and ocor any portion of the hemp plant (Cannabis cupiers of land and other sativa), from which an intoxicating drug persons to give notice of unlicensed manufacture. can be manufactured or produced, is collected, on any land in contravention of this Act.

^{*} Sec. 69 A. was inserted by Ben. Act VII. of 1914.

[†] The words "a Collector or" repealed by Ben. Act VII. of 1914, are omitted here.

† Words quoted were inserted by Ben. Act VII. of 1914.

† Words quoted were substituted by Ben. Act VII. of 1914.

Act 5. all owners and occupiers of such land and their agents, and all panchayats, village-headmen, patwaris, sarbarakars, chaukidars, and daffadars of the village,

shall, in the absence of reasonable excuse, be bound to give notice to the fact to a Magistrate or an officer of the Excise, Police, or Land-revenue Department as soon as the fact comes to their knowledge.

- 73. (1) A Collector may, without the order of a Magistrate, What Excise Officers may investigate any offence punishable under this Act which a Court having jurisdiction over the local area within the limits of the Collector's jurisdiction would have power to inquire into or try under the provisions of Chapter XV. of the Code of Criminal Procedure, 1898,* relating to the place of inquiry or trial.
- (a) Any other Excise Officer specially empowered in this behalf by the Local Government in respect of all or any specified class of offences punishable under this Act may, without the order of a Magistrate, investigate any such offence which a Court having jurisdiction over the local area to which such officer is appointed would have power to inquire into or try under the aforesaid provisions.
- 74. (1) Any Collector, or any Excise Officer empowered under

 Powers and duties of Excise Officers investigating recording in writing his reason for suspecting the commission of an offence which he
 is empowered to investigate, exercise—
 - (a) any of the powers conferred upon a Police-officer making an investigation, or upon an officer in charge of a policestation, by sections 160 to 171 of the Code of Criminal Procedure, 1898,* and,
 - (b) as regards offences punishable under section 46, section 48, section 52, or section 53, of this Act, any of the powers conferred upon Police-officers in respect of cognizable offences by clause first of sub-section (1) of section 54, and by section 56, of the said Code,

and the said portions of the said Code shall apply accordingly subject to any restrictions or modifications prescribed by the Local Government by rule made under section 85, clause (o).

(2) Subject to any restrictions prescribed by the Local Government, a Collecter or an Excise Officer empowered under section 73, sub-section (2), may, without reference to a Magistrate, and for reasons to be recorded by him in writing, stop further proceedings against any person concerned, or supposed to be concerned, in any offence which he or any Excise Officer subordinate to him has investigated.

(3) For the purposes of section 156 of the Code of Criminal Procedure, 1898,* the area to, which an Excise Officer empowered under section 73, sub-section (2), is appointed, shall be deemed to be a police-station, and such officer shall be deemed to be the officer in charge of such station.

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(4) As soon as an investigation by a Collector, or by an Excise Officer empowered under section 73, sub-section (2), has been completed, if it appears that there is sufficient evidence to justify the forwarding of the accused to a Magistrate, the investigating officer, unless he proceeds under sub-section (2) of this section, or under section 65 of this Act, shall submit a report (which shall, for the purposes of section 190 of the Code of Criminal Procedure, 1898,* be deemed to be a police-report) to a Magistrate having jurisdiction to inquire into or try the case, and empowered to take cognizance of offences on police-reports.

Security and bail.

75. (1) Whenever a Collector issues a warrant under this Act for the arrest of any person,

he shall direct, by endorsement on the warrant, that, if such person executes a bond with sufficient sureties for his attendance before the Collector, or before an Excise Officer empowered, under section 73, sub-section (2), to investigate the case, at a specified time and thereafter until otherwise directed by the Collector or an Excise Officer empowered as aforesaid, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

- (2) The endorsement shall state—
 - (a) the number of sureties,
 - (b) the amount in which they, and the person for whose arrest the warrant is issued, are respectively to be bound, and
 - (c) the time at which such person is to attend as aforesaid.
- (3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Collector, or to an Excise Officer empowered as aforesaid.
- (4) Whenever any person is arrested under this Act, otherwise than under a warrant and is prepared to give bail, he shall be released on bail, or, at the discretion of the officer releasing him, on his own bond.
- (5) Any Excise Officer not below such rank as the Local Government may, by notification, prescribe, may release persons on bail, or on their own bond.

- (6) Bonds taken under this section from persons arrested otherwise than under warrant shall bind such persons to appear before the Collector or an Excise Officer empowered, under section 73, sub-section (2), to investigate the case.
- (7) The provisions of sections 498 to 502, 513, 514, and 515 of the Code of Criminal Procedure, 1898* shall apply, so far as may be, in every case in which bail is accepted, or a bond taken under this section.
- 76. (r) Articles seized under the warrant of the Collector, Production of articles and, unless security for their appearance seized and persons arrested. before the Collector be taken, persons arrested under such a warrant, shall be produced before the Collector.
- (2) Articles seized under section 66, section 67, or section 69, and persons arrested under this Act by persons or officers not having authority to release arrested persons on bail, or on their own bond, shall be produced before, or forwarded to.—
 - (a) the Collector or an Excise Officer empowered, under section 73, sub-section (2), to investigate the case, or
 - (b) the nearest Excise Officer who has authority to release arrested persons on bail, or on their own bond, or
- (c) the officer in charge of the nearest police station, whoever is nearer.
- (3) When a person arrested is produced before an Excise Officer who has authority to release arrested persons on bail, or on their own bond or before an officer in charge of a police-station, such officer shall forward such person to, or take security for his appearance before, the Collector or the Excise Officer empowered, under section 73, sub-section (2), to investigate the case.
- (4) When any articles seized cannot conveniently be conveyed before an officer referred to in sub-section (1) or sub-section (2), as the case may be, the person making the seizure shall dispose of them in some place of safety, and forthwith report the seizure to such an officer.
- 77. (1) All officers in charge of police-stations shall take Custody by police of charge of, and keep in safe custody, articles seized. pending the orders of a Magistrate, or of the Collector or of an Excise Officer empowered, under section 73, sub-section (2), to investigate the case, all articles seized under this Act which may be delivered to them, and shall allow

any Excise Officer who may accompany such articles to the police-station, or who may be deputed for the purpose, by an official superior, to affix his seal to such articles, and to take samples of and from them.

- (2) All samples so taken shall be sealed with the seal of the officer in charge of the police-station.
- 78. When any Excise Officer below the rank of Collector, Reports of arrests, seizures, or any officer in charge of a police station, and searches. makes, or receives information of, any arrest, seizure, or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the arrest, seizure, or search, or of the information received, to the Collector, and to the Excise Officer (if any) empowered under section 73, sub-section (2), within the local limits of whose jurisdiction the arrest, seizure, or search was made.
- 79. Any warrant issued by a Collector may be executed by Execution of Collector's any officer selected by the Collector for the purpose:

Provided that no warrant issued by the Collector for execution in that part of the Calcutta district in which the administration of the police is vested in the Commissioner of Police shall be executed by any Police-officer who is subordinate to the said Commissioner unless it be endorsed by a Police-officer duly empowered in that behalf under section 7, clause (d).

- Maximum period of dein custody for a longer period than under
 tention.

 all the circumstances of the case is reasonable; and such period shall not exceed twenty-four hours exclusive
 of the time necessary for the journey from the place of arrest
 to the place where a Collector or an Excise Officer empowered,
 under section 73, sub-section (2), to investigate the case may be,
 and thence to the Court of a Magistrate having jurisdiction, to
 inquire into or try the case.
- (2) A Magistrate, to whom an accused person is forwarded, under section 167 of the Code of Criminal Procedure, 1898,* by a Collector or an Excise Officer empowered under section 73, sub-section (2), may exercise the powers conferred upon a Magistrate by the said section 167.
- 81. (1) Save as is in this Act otherwise expressly provided,
 Application of certain the provisions of the Code of Criminal
 provisions of the Code of Criminal Procedure, 1898.

 Procedure, 1898, relating to arrests, detentions in custody, searches, summonses,
 warrants of arrest, search-warrants and the production of persons
 arrested, shall apply, so far as may be, to arrests, detentions and

1909. searches made, summonses and warrants issued, and the produc-

- (2) For the purposes of the said provisions of the said Code, a Collector shall be deemed to be a Court.
- (3) Officers to whom a Collector's warrant is directed or endorsed, and officers (other than Collectors) making arrests, searches, or seizures under this Act, shall, for the purposes of the said provisions of the said Code, be deemed to be Police-officers.

Magistrates having jurisdiction to try offences.

82. No Magistrate other than—

- (a) a Presidency Magistrate or
- (b) a Magistrate whose powers are not less than those of a Magistrate of the second class, or
- (c) a Magistrate of the third class specially empowered by the District Magistrate in this behalf,

shall try any offence punishable under this Act.

Initiation of certain prosecutions.

83. No Magistrate shall take cognizance of an offence referred to—

- (a) in section 46, section 48, section 52, or section 53, except on his own knowledge or suspicion, or on the complaint or report of an Excise Officer or an officer empowered in this behalf by the Local Government; or
- (b) in section 54, section 58, clause (d) or clause (e), or section 59, except on the complaint or report of the Collector or an Excise Officer authorized by the Collector in this behalf.
- 84. The provisions of section 191 of the Code of Criminal

 Bar to transfer of trial on Procedure, 1898,* shall not apply in any application of accused case in which a Magistrate (not being the Collector) takes cognizance of an offence under this Act on the report of any officer referred to in clause (a) or clause (b) of section 83.

CHAPTER X.

MISCELLANEOUS.

- 85. (1) The Local Government may make rules to carry out

 Power of Local Government to make rules. the objects of this Act or any other law for
 the time being in force relating to the
 excise-revenue.
- (2) In particular, and without prejudice to the generality of the foregoing provision, the Local Government may make rules—

(a) for prescribing the powers and duties of officers of the Excise Department;

1909. Act 5.

- (b) for regulating the delegation of any powers by* the Commissioner of a Division, the Excise Commissioner, or Collectors under section 7, clause (g);
- (c) for declaring in what cases or classes of cases, and to what authorities, appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made hereunder and for prescribing the time and manner for presenting, and the procedure for dealing with, such appeals;
- (d) for regulating the import, export, or transport of any excisable article;
- (e) for regulating the periods for which licenses for the wholesale or retail vend of any excisable article may be granted, and the number of such licenses which may be granted for any local area;
- (f) for prohibiting the grant of licenses for the retail sale of any excisable article at any place, or within any local area, described in the rules, or for defining the places in the vacinity of which shops for the retail sale of any excisable article shall not ordinarily be licensed;
 - (g) for prohibiting the grant to specified classes of persons of licenses for the retail sale of any excisable article;
 - (h) for declaring, either generally, or in respect of areas described in the rules, the persons or classes of persons to whom any excisable article may or may not be sold;
 - (j) for regulating the procedure to be followed, and prescribing the matters to be ascertained before any license for the wholesale or retail vend of any excisable article is granted for any locality;
 - (k) for restricting the exercise of any of the powers conferred by "section 65, clause (a), and "t section 66 and 67;
 - (1) for declaring the Excise Officers to whom, and the manner in which, information or aid should be given under section 71;
 - (m) for the grant of expenses to witnesses;
 - (n) for the grant of compensation for loss of time to persons released by any Excise Officer under this Act on the ground that they have been improperly arrested, and

The words "the Board" repealed by Ben. Act VII. of 1914 are omitted here.
 Words and figures quoted were inserted by Ben. Act VII. of 1914.

to persons charged before a Magistrate with offences punishable under this Act, and subsequently acquitted; and

- (o) for prescribing restrictions or modifications in the application to Excise Officers of the provisions of the Code of Criminal Procedure, 1898,* relating to powers of Police-officers which are referred to in section 74, sub-section (1), of this Act.
- (3) The powers conferred by this section for making rules are subject to the condition that the rules be made after previous publication:

Provided that any such rules may be made without previous publication if the Local Government considers that they should be brought into force at once.

Power of Board to make rules.

86. The "Local Government" may make rules—

- (1) for regulating the manufacture, supply, or storage, of any excisable article, and in particular, and without prejudice to the generality of this provision, may make rules for regulating—
 - (a) the establishment, inspection, supervision, management, and control of any place for the manufacture, supply, or storage of any excisable article, and the provision and maintenance of fittings, implements and apparatus therein;
 - (b) the bottling of liquor for purposes of sale;
 - (c) the cultivation of the hemp plant (Cannabis sativa);
 - (d) the collection of portions of the hemp plant (Cannabis sativa) from which intoxicating drugs can be manufactured or produced, and the manufacture or production of intoxicating drugs therefrom;
 - (e) the tapping of tari-producing trees and the drawing of tari from trees;
 - (f) the marking of tari producing trees in areas notified under section 14, sub-section (1), and the maintenance of such marks:
- (2) for the strength, price, or quantity in excess of or below which any excisable article shall not be supplied or sold, and the quantity in excess of which denatured spirit shall not be possessed, and for prescribing a standard of quality for any excisable article;
- (3) for declaring how spirit manufactured in British India shall be denatured;
- (4) for causing spirit so manufactured to be denatured through the agency or under the supervision of Government officers;

^{*} Act V. of 1898.

[†] Substituted for "Board" by Ben. Act VII. of 1914.

(5) for ascertaining whether any spirit so manufactured has 1909. been denatured;

Act 5.

- (6) for regulating the deposit of any excisable article in a warehouse established, authorized, or continued under this Act, and the removal of any excisable article from any such warehouse, or from any distillery or brewery;
- (7) for prescribing the scale of fees or the manner of fixing the fees payable in respect of any exclusive privilege granted under section 22, or any license, permit, or pass granted under this Act, or in respect of the storing of any excisable article;
- (8) for regulating the time, place, and manner of payment of such fees;
- (9) for prescribing the restrictions under which, or the conditions on which, any license, permit, or pass may be granted and in particular, and without prejudice to the generality of this, provision, may make rules for-
 - (i) prohibiting the admixture with any excisable article of any article deemed to be noxious or objectionable,
 - (ii) regulating or prohibiting the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength,
 - (iii) prescribing the nature and regulating the arrangement of the premises in which any excisable article may be sold, and prescribing the notices to be exposed at such premises,
 - (iv) prohibiting or regulating the employment by the licensee of any person or class of persons to assist him in his business,
 - (v) prohibiting the sale of any excisable article except for
 - (vi) prescribing the days and hours during which any licensed premises may or may not be kept open, and providing for the closing of such premises on special occasions.
 - (vii) prescribing the accounts to be maintained, and the returns to be submitted by, licensees, and
 - (viii) regulating the transfer of licenses.
- (10). for prescribing the particulars to be contained in licenses, permits, or passes granted under this Act;
- (11) for the payment of compensation to licensees whose premises are closed under section 26, or under any rule made under sub-clause (vi) of clause (9) of this section;
- (12) for prescribing the time, place, and manner of levying duty on excisable articles;

1909.

- (13) for providing for the destruction or other disposal of any Act 5. excisable article deemed to be unfit for use; and
 - (14) for regulating the disposal of things confiscated under this Act.

Explanation.—Fees may be prescribed under clause (7) of this section at different rates for different classes of exclusive privileges, licenses, permits, passes, or storage, and for different areas.

- 87. [Repealed by Ben. Act VII. of 1914.]
- 88. All rules made, and notifications issued, under this Act Publication and effect of shall be published in the Calcutta Gazette, rules and notifications and, on such publication, shall have effect as if enacted in this Act.

89. (1) The following moneys, name-Recovery of dues.

- (a) all excise-revenue,
- (b) any loss that may accrue when a grant has been taken under management by the Collector, or transferred by him under section 45, and
- (c) all amounts due to the Government by any person on account of any contract relating to the excise-revenue, may be recovered from the person primarily liable to pay the same, or from his surety (if any), by distress and sale of his moveable property, or by the process prescribed for the recovery of arrears of revenue.
- (2) When a grant has been taken under management by the Collector, or has been transferred by him under section 45, the Collector may recover, in any manner authorized by sub-section (1), any money due to the grantee by any lessee or assignee.
- (3) When any money is due, in respect of an exclusive privilege, to a grantee referred to in section 23, from any person holding under him,

such grantee may apply to the Collector, and the Collector may recover such money on his behalf in either of the ways provided by sub-section (1):

Provided that nothing in this sub-section shall affect the right of any such grantee to recover any such money by civil suit.

90. The Local Government may, by notification, either wholly or partially, and subject to such conditions Power of Local Govern-(if any) as it may think fit to prescribe, ment to exempt excisable articles from provisions of exempt any excisable article from all or any of the provisions of this Act, either throughout Bengal, or in any specified local area, or for any specified period or occasion, or as regards any specified class of persons.

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91. No suit shall lie in any Civil Court against the Secretary of State for India in Council or any Excise Officer for damages for any act in good faith done or ordered to be done in pursuance of this Act, or of any other law for the time being in force relating to the excise-revenue.

92. No Civil Court shall try any suit against the Secretary of Limitation of suits and State for India in Council in respect of any-prosecutions. thing done, or alleged to have been done, in pursuance of this Act,

and, except with the previous sanction of the Local Government, no Magistrate shall take conizance of any charge made against any Excise Officer under this Act or any other law relating to the excise-revenue, or made against any other person under this Act,

unless the suit or prosecution is instituted within six months after the date of the act complained of.

Bar to application of section 261 of the Bengal Munition 261 of the Bengal Municipal Act, 1884.

92A.* Section 261 of the Bengal Municipal Act, 1884, shall not apply to—

- (a) any distillery, brewery, warehouse or other place of storage licensed, established, authorized or continued under this Act, or
- (b) the premises used for the manufacture or sale of any excisable article by the holder of a license granted under this Act for such manufacture or sale.
- 93. The enactments mentioned in the first column of the Schedule are hereby repealed to the extent specified in the third column thereof.

^{*} Sec. 92A was inserted by Ben, Act VII. of 1914.

THE SCHEDULE.

[ENACTMENTS REPEALED.]

(See Section 93.)

1	2	3
Number and year.	Short title.	Extent of repeal.

Part I.—Acts of the Governor-G eneral of India in Council.

XVI. of 1863	•••	The Excise (Spirits) Act, 1863	So much as has not been repealed.
IX. of 1885	•••	The Excise and Sea Customs Law Amendment Act, 1885.	In the title, the words and figures "the Bengal Excise Act, 1578, and." In the preamble, the words and figures "section 18 of the Bengal Excise Act, 1878, and." Section 3.
XIII. of 1890	•••	The Excise (Malt Liquors) Act, 1890.	Sections 6, 7, and 8 and the head- ing prefixed thereto.
VIII. of 1894	•••	The Indian Tariff Act, 1894	Section 6.
XII. of 1896	•••	The Excise Act	So much as has not been repealed.
			So much of the Second Schedule as relates to Bengal Act I. of 1883 (Excise).
VII. of 1906	•••	The Excise (Amendment) Act, 1906.	The whole.

Part II.—Bengal Acts.

VII. of 1878	•••	The Bengal Excise and Licensing Act, 1578.
IV. of 1881	•••	The Bengal Excise and Licensing Act, 1578. The Bengal Excise (Amendment) Act, 1881. So much as has not been repealed.
l. of 1883	•••	The Bengal Excise (Amendment) Act, 1883.
ll. of 1903	•••	The Bengal Excise and Licen- sing (Amendment) Act, 1903.
		1

BEN. ACT NO. I. OF 1910.

1910 Act 1

The Calcutta Port (Amendment) Act, 1910.

[Published in the "Calcutta Gazette" of the 23rd March 1910.]

An Act further to amend the Calcutta Port Act, 1800.*

WHEREAS it is expedient further to amend the Calcutta Port Act, 1890;* It is hereby enacted as follows:—

Short title.

- 1. This Act may be called the Calcutta Port (Amendment) Act, 1910.
- 2. In the proviso to section 30 of the Calcutta Port Act, 1890,*

 Amendment of section 30 after the figures "31," the words, letter, and brackets "[except clause (g) thereof]" shall be inserted.

Amendment of section 31.

3. (1) After clause (1) of section 31 of the said Act, the following shall be inserted, namely—

" and

- (g) for determining the conditions under which pensions, gratuities, or compassionate allowances may be paid to any of such officers or servants injured, or to surviving relatives of any such officers or servants killed, in the execution of their duty, whether the injury or death occurred before or after the commencement of the Calcutta Port (Amendment) Act, 1910."
- (2) For sub-section (2) of the said section 31, the following shall be substituted, namely:—
- "(2) In the event of any question arising as to the right of
 Local Government to deany officer or servant, or any surviving
 termine right to pension, relative of any officer or servant, to any
 tec.

 pension, gratuity, or compassionate allowance referred to in clause (e), or clause (g), or as to the amount
 thereof, such question shall be determined by the Local Government."
- (3) In sub-section (3) of the said section 31, before the word "shall," the words and letter "or clause (g)" shall be inserted.

Amendment of section 33.

4. In section 33 of the said Act, after the word "allowance," the following shall be inserted, namely:—

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1910. Aots 1 "or of granting a pension, gratuity, or compassionate allowance to any officer or servant injured, or to surviving relatives of any officer or servant killed, in the execution of his duty."

5. In sub-section (1) of section 34 of the said Act, after the word "rupees," the following shall be inserted, namely:—

"or to any surviving relative of any officer referred to in this section."

BEN. ACT NO. II. OF 1910.

The Bengal Municipal (Amendment and Validation) Act, 1910.

[Published in the "Calcutta Gazetie" of the 23RD March 1910.]

An Act to declare the Meaning of certain words in clause (b) of section 66 of the Bengal Municipal Act, 1884.*

WHEREAS certain officers were directed by the Lieutenant-Governor of Bengal, by orders issued under clause (b) of section 66 of the Bengal Municipal Act, 1884,* to exercise and perform the powers and duties of the Commissioners of certain Municipalities who had been superseded by orders issued under section 65 of that Act:

And whereas the said officers, in exercise of the power conferred by section 9 of the said Act on Commissioners at a meeting, recommended alterations in the numbers of the Commissioners of the said Municipalities:

And whereas the Lieutenant-Governor of Bengal thereupon, by notifications issued under sections 9 and 9A of the said Act, altered the numbers of the Commissioners of the said Municipalities, with effect from the expiration of the period for which the former Commissioners were superseded:

And whereas doubts have been raised as to whether clause (b) of the said section 66 confers upon the persons appointed thereunder any of the powers of the Commissioners which are expressed by the said Act to be exercisable only at a meeting of the Commissioners:

And whereas it is expedient to remove such doubts by declaring that the said clause (b) refers to powers exercisable at a meeting of the Commissioners:

BEN. MUCPL. (AMENDI. & YALIDATION) ACT. 1481

And whereas it is also expedient to give retrospective effect to such declaration in order to validate all action taken by bodies of Municipal Commissioners constituted in pursuance of orders issued under the said section 9 on the recommendation of the officers aforesaid:

1910, Act 2,

And whereas, in the case of one of the Municipalities hereinbefore referred to, namely, the Santipur Municipality, the number of the Commissioners was altered by a Notification No. 1726, dated the 2nd September 1904, issued under section 9 of the said Act, instead of by notifications issued under both section 9 and section 9A:

And whereas it is expedient to validate the said notification; It is hereby enacted as follows:—

Short title,

- *1. This Act may be called the Bengal Municipal (Amendment and Validation) Act, 1910.
- *2. The expression "all the powers and duties of the ComMeaning of clause (b) of missioners" in clause (b) of section 66 of
 section 66 of Bengal Act the Bengal Municipal Act, 1884,† shall
 include, and shall be deemed always to
 have included, powers and duties which may be exercised and
 performed at a meeting of the Commissioners, as well as powers
 and duties which may be exercised and performed otherwise than
 at such a meeting.
- 3 The Notification No. 1726 dated the 2nd September 1904, Validation of notification altering the number of the Said Act, and published at page 202 of Commissioners of the Santipur Municipality.

 Part IB of the Calcutta Gasette of the 7th day of September 1904, shall be deemed to be as valid as if it had been rightly framed and followed in due course by a notification framed under section 9A of that Act; and the number of the Commissioners of the Santipur Municipality, in the district of Nadia, shall accordingly be deemed to have been lawfully fixed at nine, with effect from the 2nd day of September 1904, and shall remain at nine unless and until the number be altered hereafter by notifications published under sections 9 and 9A of the said Act.

Sections 1 & 2 have been extended to Eastern Bengal and Assam by Ben. Act
 I, of 1914.
 Ben. Act III. of 1884.

1482 CAL. & SUBURBAN POLICE (AMENDT.) ACT.

BEN. ACT NO. III. OF 1910.

The Calcutta and Suburban Police (Amendment) Act, 1910.

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- 43. (1) Power to arrest without warrant.
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- 26. Amendment of section 79 of the Calcutta Act.
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- 30. New sections 100 and 101 for the Calcutta Act—
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31. New sections 102A and 102B for the Calcutta Act and 49A and 49B for the Suburban Act—

A. Public nótices how to be given.

B. Consent, etc., of Commissioner of Police or Police-officer how to be proved.

32. New section 102C for the Calcutta Act and 49C for the Suburban Act.

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Act 3

THE SCHEDULE.

REPEAL OF ENACTMENTS.

BEN. ACT NO. III. OF 1910.

The Calcutta and Suburban Police (Amendment) Act, 1910.

[PUBLISHED IN THE "CALCUTTA GAZETTE" OF THE 11TH MAY 1910.]

An Act further to amend the Calcutta Police Act, 1866,* and the Calcutta Suburban Police Act, 1866,†

WHEREAS it is expedient further to amend the Calcutta Police Act, 1866,* and the Calcutta Surburban Police Act, 1866,† in the, manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Calcutta and Suburban Police (Amendment) Act, 1910.

2. The expression "the Calcutta Act," as used in this Act

means the Calcutta Police Act, 1866,* and
the expression "the Suburban Act," as used
in this Act, means the Calcutta Suburban Police Act, 1866.†

Additions to section 3 of the Calcutta Act,*
the Calcutta Act.

3. To section 3 of the Calcutta Act,*
the following shall be added, namely:—

"the phrases 'investigation,' 'offence,' 'cognizable offence,' and 'non-cognizable offence' shall, respectively, have the meanings assigned thereto by the Code or Criminal Procedure, 1898;‡

'Officer in charge of a police-station' shall include, when the officer in charge of the police-station is absent from the station-house or unable, from illness or other cause, to perform his duties, the Police-officer present at the station-house who is next in rank to such officer, and is above the rank of constable."

Additions to section 3 of the Calcutta Act and section 51 of the Suburban Act 4. To section 3 of the Calcutta Act,* and to section 51 of the Suburban Act,† the following shall be added, namely:—

^{*} Ben Act IV. of 1866.

1910. Act 3.

- "'explosive substance' shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement, or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine, or implement;
- 'place of public amusement' shall mean any place, enclosure, building, tent, booth, or other erection, whether permanent or temporary, where music, singing, dancing, or any diversion or game, or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted, otherwise than for a bona-fide charitable purpose; and shall include a race-course, circus, theatre, music-hall, billiard-room, bagatelle-room, gymnasium, and fencing-school;
- 'place of public entertainment' shall mean any place, whether enclosed or open, to which the public are admitted, and where any kind of food, drink, or drug is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in, or managing, such place; and shall include a refreshment-room, eating house, coffee-house, tea shop, liquor-house, boarding-house, lodging-house, hotel, restaurant, tavern, wine-shop, beer-shop, spirit-shop, arrack-shop, toddy-shop, bhang-shop, and opium-shop;
- 'Poffice-officer' shall mean any member of the Calcutta Police force, and shall include the Commissioner of Police and a Deputy Commissioner of Police;
- 'police-station' shall mean any post or place declared, generally or specially, by the Lieutenant-Governor to be a police-station, and shall include any local area specified by the Lieutenant-Governor in this behalf;
- 'public place' shall include the banks of the river, the docks, the jetties, ware-houses to which the public have access, every public building and monument and the precincts thereof, and all places accessible to the public for drawing water, washing, or bathing, or for purposes of recreation;
- 'street' shall mean any road, lane, footway, square, court alley, or passage, whether a thoroughfare or not, to which the public have permanently or temporarily, a right of access;
- 'vehicle' shall include any locomotive, automobile, tram-car, carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-cycle, or other wheeled conveyance of any description capable of being used on the streets"

New section 10A for the Calcutta Act and 4A for the Suburban Act

5. The following section shall be in the Calcutta Act as section 10A, and, in the Suburban Act, as section 4A, namely:

Dutles of Police-officers. "(1) It shall be the duty of every Police-

1910. Act 3.

- (a) promptly to serve every summons, and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour, by all lawful means to give effect to the lawful commands of his superiors;
- (b) to the best of his ability, to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information, and to take such other steps, consistent with law and with the orders of his superiors, as are best calculated to bring offenders to justice, or to prevent the commission of cognizable offences, or the commission of non-cognizable offences, within his view;
- (c) to the best of his ability, to prevent the commission of public nuisances;
- (d) to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension there is sufficient reason:
- (e) to aid any other Police-officer, when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;
- (f) to discharge such duties as are imposed upon him by any law for the time being in force;
- (g) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons, and of lunatics at large, who appear to be dangerous, or to be incapable of taking care of themselves:
- (h) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick, and, while guarding or conducting any such person, to have due regard to his condition;
- (i) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody;
- (i) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance;
- (k) in dealing with women and children, to act with strict regard to decency, and with reasonable gentleness;
- (1) to use his best endeavours-
 - (i) to prevent any loss or damage by fire, and
 - (ii) to avert any accident or danger to the public;

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- (m) to regulate and control the traffic in the streets, to prevent obstruction therein, and, to the best of his ability, to prevent the infraction of any rule or order made under this Act, or under any other law for the time being in force for observance by the public in or near the streets;
- (n) to keep order in the streets, and at and within public bathing, washing, and landing places, fairs, and all other places of public resort, and in the neighbourhood of places of public worship during the time of public worship:
- (o) to regulate resort to public bathing, washing, and landing places, to prevent overcrowding thereat and in public ferryboats, and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place, or on any such boat; and
- (p) to perform all duties imposed on him by rules for the time being in force under this Act, in the manner and subject to the conditions therein prescribed.
- (2) All persons shall be bound to conform to the reasonable directions of a Police-officer given in fulfilment of any of the said duties.
- (3) A Police-officer may restrain or remove any person resisting, or refusing, or omitting to conform to, any such direction as aforesaid."

Amendment of section 13
6. In section 13 of the Calcutta Act, for the Calcutta Act.
the word "constable," the words "Police-officer" shall be substituted.

New sections 13A to 13C for the Calcutta Act and 8A to 8C for the Suburban Act.

7. The following sections shall be inserted in the Calcutta Act as sections 13A, 13B, and 13C, and in the Suburban Act as sections 8A, 8B, and 8C, namely:—

"A. The Commissioner or a Deputy Commissioner of Police
Police-officers prohibited shall not, without the permission of the from other employment.

Lieutenant-Governor, and a Police-officer of lower rank than that of Deputy Commissioner shall not, without the permission of the Commissioner of Police,

either as principal or agent,-

- (a) engage in any trade, or
- (b) be in any way concerned in the purchase or sale of any immoveable property within the town or suburbs of Calcutta, or of any interest therein, or
- (c) hold any office, or practise any profession, or engage in any employment whatever other than his office or duties as such Police-officer.

Offences by Police-officers.

"B. Any Police-officer who-

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- (a) contravenes any provision of the last-foregoing section, Act 3;
- (b) is guilty of cowardice, or
- (c) is guilty of any wilful breach or neglect of any provision of law, or of any rule or order, which it is his duty, as such Police-officer, to observe or obey, or
- (d) is guilty of any violation of duty for which no punishment is expressly provided by any other law for the time being in force,

shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees, and which may be deducted from any salary due to him, or to both.

Vexatious entry, search, seizure, arrest, detention, etc., by Police-officers.

"C. Any Police-officer who,-

- (a) without lawful authority or reasonable cause, enters or searches, or causes to be entered or searched, any building, vessel, tent, or place, or
- (b) vexatiously and unnecessarily seizes the property of any person, or
- (c) vexatiously and unnecessarily detains, searches, or arrests any person, or
- (d) vexatiously and unnecessarily delays forwarding any person arrested to a Magistrate, or to any other authority, to whom he is legally bound to forward such person, or
- (e) offers any unnecessary personal violence to any person in his custody, or
- (f) holds out to an accused person any threat or promise not warranted by law,

shall be liable to imprisonment, with or without hard labour, for a term which may extend to six months, or to fine which may extend to five hundred rupees, or to both."

New section 14A for the Calcutta Act and 8D for the Suburban Act.

8. The following section shall be inserted in the Calcutta Act as section 14A and in the Suburban Act as section 8D, namely:—

"Any person who knowingly makes a false statement, or uses

False statement to obtain
a false document for the purpose of obtainemployment or release.
ing, for himself or any other person, employment or release from employment as a Police-officer, shall be
liable to imprisonment, with or without hard labour, for a term

1910. which may extend to three months, or to fine which may extend to one hundred rupees, or to both."

New section 21A for the Calcutta Act and 15A for the Suburban Act.

9. The following section shall be inserted in the Calcutta Act as section 21A, and in the Suburban Act as section 15A, namely:—

Constitution of divisions and sections.

- "(1) Subject to the control of the Lieutenant-Governor, the Commissioner of Police shall, by order,—
- (a) constitute such and so many police-divisions as he thinks fit, and
- (b) sub-divide such divisions into such and so many sections as he thinks fit and
- (c) define the limits and extent of such divisions and sections.
- (2) Every such order shall be published in the Calcutta Gasette, and in the manner prescribed by this Act for the publication of public notices."

New section 29 for the Calcutta Act and 15B for the Suburban Act.

10. The following section shall be substituted for section 29 of the Calcutta Act, and shall be inserted in the Suburban Act as section 15B, namely:—

"Whoever, without satisfactory excuse, wilfully enters or
Wrongfully entering or remains in or upon any dwelling-house or
remaining in or on building, private premises or any land or ground
land, vehicle, &c. attached thereto, or any ground, building,
monument, or structure belonging to the Government, or appropriated to public purposes, or any vehicle, boat, or vessel, shall,
whether he causes any actual damage or not, be liable to fine
which may extend to twenty rupees."

11. For the words "subject to the order and control of the Amendment of section 36 Lieutenant-Governor of Bengal," in section 36 of the Calcutta Act, and for the words tion 19 of the Suburban Act. "subject to the order and control of the said Lieutenant-Governor," in section 19 of the Suburban Act the following shall be substituted, namely:—

"The Commissioner of Police shall, in granting or refusing certificates under this section, be subject to the direction and control of the Lieutenant-Gove rnor."

Amendment of section 33 of the Suburban Act.

12. In section 33 of the Suburban Act, for the words "police-office" the words "police-station" shall be substituted.

New section 54A for the Calcutta Act and 33A for the Suburban Act.

13. The following section shall be inserted in the Calcutta Act as section 54A, and in the Suburban Act as section 33A, namely:—

"(1) Whoever has in his possession, or conveys in any manPossession or dealing with ner or offers for sale or pawn, anything thing stolen or fraudulently which there is reason to believe to have been stolen or fraudulently obtained shall, if he fails to account for such possession or act to the satisfaction of the Magistrate, be liable to fine which may extend to one hundred rupees, or to imprisonment, with or without hard labour, for a term which may extend to three months.

(2) If any person charged under sub-section (1) in respect of anything declares that he received such thing from some other person, or that he was employed as a carrier, agent, or servant to convey such thing for some other person,

the Magistrate, after such further inquiry (if any) as he may deem necessary, may summon such other person, and any former or pretended purchaser or other person through whose possession such thing is alleged to have passed, to appear before him, and may examine such person and any witnesses who are produced to testify to such receipt, employment, or possession.

and, if it appears to the Magistrate that any such person had possession of such thing, and had reasonable cause to believe that it was stolen or fraudulently obtained, the Magistrate may punish him with fine which may extend to one hundred rupees, or with imprisonment, with or without hard labour, for a term which may extend to three months."

Amendment of section 60 of the Calcutta Act, of the Calcutta Act and section 37 of the Suburban Act,—

14. In section 60 of the Calcutta Act, and in section 37 or the Suburban Act,—

- (1) after the word "oath." the words "and reduced to writing" shall be inserted;
- (2) after the words "Police-officer," the words "not below the rank of Sub-Inspector" shall be inserted;
- (3) the words "in the day time" are hereby repealed;
- (4) for the word "gunpowder," wherever it occurs, the words "explosive substance" shall be substituted: and,
 - (5) after the words "this Act," the words "or any other law or any rule made thereunder" shall be inserted.
- 15. (1) In section 61 of the Calcutta Act, and in section 38 of

 Amendment of section 61 the Suburban Act, for the word "gunpowder,"
 of the Calcutta Act and section 38 of the Suburban Act
 in each place in which it occurs, the words
 "explosive substances" shall be substituted.
- (2) In the same sections, for the word "four," the word "three" shall be substituted.

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New sections substituted for section 62 of the Calcutta Act and section 39 of the Suburban Act.

16. The following sections shall be substituted for section 62 of the Calcutta Act, being numbered 62, 62A, 62B, and 62C, respectively, and shall also be substituted for section 30 of the Suburban Act, being numbered 39, 39A, 39B, and

39C, respectively, namely:---

- "(1) With the previous sanction of the Lieutenant-Governor, the Commissioner of Police may, after pre-Power of Commissioner vious publication, from time to time make to make rules for regulation of traffic, etc. rules-
 - (a) for licensing and controlling persons offering themselves for employment at quays, wharves, or landing places for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons when so employed;
 - (b) regulating traffic of all kinds in streets and public places, and the use of streets and public places, by persons riding, or driving, leading, or riding in vehicles, or leading or accompanying cattle, or walking, so as to prevent danger, obstruction, or inconvenience to the public;
 - (c) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places for vehicles or cattle;
 - (d) prescribing the number and position of lights to be used on vehicles in streets and public places;
 - (e) regulating and controlling the conveyance of timber, bamboos, scaffold poles, ladder, iron girders, beams, or bars, boilers, or other unwieldy articles, or coal or bricks lime, or other building materials, through the streets, and the route and hours for such conveyance;
 - (1) for licensing, controlling, or, in view to preventing obstruction, inconvenience, or annoyance to residents or passengers in the vicinity, prohibiting the playing of music in streets or in public places other than public buildings and the precincts thereof;
 - -(e) for licensing, controlling, or, in view to preventing risk, danger, or damage to residents or passengers in the vicinity, prohibiting the carrying of any explosive substance in streets or public places;
 - (h) for controlling in the interests of the public convenience and safety, the illumination of streets and public places, and the erection of structures on or over any street or public place, or against the exerior of any building abutting thereon, for the purposes of illumination:

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- (i) for authorizing and regulating the removal, by the Police, of any structures referred to in clause (h) of this section, or any appliances for illumination placed on or over any street or public place, or against the exterior of any building abutting thereon, when the Commissioner of Police considers that the same are likely to cause obstruction, danger, or damage to residents or passengers in the vicinity; or
- (j) regulating that means of entrance and exit at places of public amusement, entertainment, and assembly, and the lighting thereof when used by the public, and providing for the maintenance of public safety and the prevention of disturbance therein:

Provided that nothing in this section shall affect the provisions of the Indian Arms Act, 1878,* or the Indian Explosives Act, 1884.†

- (2) Any rules made under this section may, with the like sanction, be altered or rescinded by the Commissioner of Police after previous publication of the alteration of rescission.
- (3) Every rule and alteration of a rule made under this section, and every rescission of any such rule, shall be published in the Calcutta Gazette, and in the manner prescribed by this Act for the publication of public notices.
- (4) Whoever contravenes any rule made under this section shall be liable.—
 - (i) if the rule were made under clause (a), clause (b), clause (c), or clause (f) of sub-section (1)—to fine which may extend to fifty rupees, or,
 - (ii) if the rule were made under clause (d), clause (e), or clause (g) of sub-section (1)—to imprisonment, with or without hard labour, for a term which may extend to eight days, or to fine which may extend to fifty rupees, or to both, or,
 - (iii) if the rule were made under clause (h), clause (i), or clause (j) of sub-section (l)—to fine which may extend to one hundred rupees.
- "A. (r) The Commissioner of Police, and, subject to the orders

 Power of Commissioner of the Commissioner of Police, every Policeand other officers to give officer of a rank not inferior to that of Subdirections to the public. Inspector, may, with a view to securing the
 public safety or convenience but not so as to contravene any rule
 made under the last-foregoing section or the provisions of any
 license granted under any such rule, give all such directions, either
 orally or in writing, as he may consider necessary to—
 - (a) secure the orderly conduct of persons constituting processions and assemblies in streets;

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- (b) prescribe the routes by which, and the times at which, any such procession may or may not pass;
- (c) prevent obstruction on the occasion of all processions and assemblies, and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed;
- (d) keep order on and in all streets, quays, wharves, and landing-places, and all other public places or places of public resort; or
- (e) regulate and control music, the beating of drums, tomtoms, and other instruments, and the blowing or sounding of horns or other noisy instruments, in any street or any public place other than public buildings and the precincts thereof.
- (2) The Commissioner of Police may also, subject to the control of the Lieutenant-Governor, whenever and for such time as, he may consider it necessary to do so for the preservation of the public peace or public safety, by notification publicly promulgated or addressed to individuals, prohibit—
 - (i) the carrying of swords, spears, bludgeons, guns, or other offensive weapons in any public place;
 - (ii) the carrying, collection, and preparation of stones or other articles intended to be used as missiles, or of instruments or means of casting or impelling missiles;
 - (iii) the exhibition of persons, corpses, figures, or effigies in any public place; and
 - (iv) the public utterance of cries, singing of songs, or playing of music.
- (3) The Commissioner of Police may also, subject to the control of the Lieutenant-Governor, whenever, and for such time as, he may consider necessary, by notification publicly promulgated or addressed to individuals, prohibit the delivery of public harangues, the use of gestures or mimetic representations, and the preparation, exhibition, or dissemination of pictures, symbols, placards, or any other object or thing, which—
 - (i) may be of a nature to outrage morality or decency, or
 - (ii) are likely, in the opinion of the Commissioner of Police, to inflame religious animosity or hostility between different classes, or to incite to the commission of an offence, to a disturbance of the public peace, or to resistance to, or contempt of, the law or lawful authority.
- (4) The Commissioner of Police may also, by order in writing, prohibit any procession or public assembly, whenever, and for so

long as, he considers such prohibition to be necessary for the preservation of the public peace or public safety:

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Provided that no such prohibition shall remain in force for more than seven days without the sanction of the Lieutenant-Governor.

- (5) The Commissioner of Police may also, subject to the orders of the Lieutenant-Governor, by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved save under such conditions as may be prescribed by the Commissioner of Police.
- (6) Whoever contravenes any direction, order, or prohibition lawfully given or made under this section shall be liable,—
 - (i) if the direction, order, or prohibition were given or made under sub-section (1) or sub-section (5)—to fine which may extend to one hundred rupees; or
 - (ii) if the prohibition were made under sub-section (2), sub-section (3), or sub-section (4)—to imprisonment, with or without hard labour, for a term which may extend to one month, or to fine which may extend to one hundred rupees, or to both.
- "B. (1) Whenever a notification, order in writing, or public

 But of orders issued under the last foregoing section.

 "B. (1) Whenever a notification, order in writing, or public
 notice has been duly issued under sub-section
 (2), sub-section (3), sub-section (4), or subsection (5) of the last-foregoing section,
 then,—
 - (a) in the case of a notification issued under clause (i), clause (ii), or clause (iii) of the said sub-section (2), or in the case of a public notice issued under the said subsection (5)—any Magistrate or any Police-officer, or,
 - (b) in the case of a notification issued under clause (iv) of the said sub-section (2), or under the said sub-section (3), or in the case of an order issued under the said sub-section (4)—any Magistrate or any Police-officer of or above the rank of Sub-Inspector,

may require any person, acting or about to act contrary thereto, to desist or to abstain from such action, and, in case of refusal or disobedience, may arrest such person.

(2) Any Magistrate or Police-officer acting under sub-section (1) may also seize anything used, or about to be used, in contravention of such notification, order, or notice as aforesaid; and anything so seized shall be disposed of as any Magistrate having jurisdiction may order.

Power to give directions to prevent disorder at places of public amusement, etc.

Power to give directions to manifest and imminent danger to the persons assembled at any place of public amusement, or at any assembly or meeting to which the public are invited, or which is open to the public,

the Police-officer of highest rank, superior to that of Head 1910. Constable, who is present, may, subject to such rules, directions. Act 8. and orders as may have been lawfully made.

give such reasonable directions as he may think necessary as to the mode of admission of the public to, and for securing the peaceful and orderly conduct of persons attending at, such place, assembly, or meeting;

and all persons shall be bound to conform to such directions.

- (2) The Police shall have free access to every such place of public amusement, assembly, or meeting, for the purpose of giving effect to the provisions of sub-section (1), and to any direction given thereunder.
- (3) Whoever disobeys or fails to conform to any lawful and reasonable direction given by any Police-officer under sub-section (1) shall be liable to fine which may extend to one hundred rupees."
- Amendment of section 66 of the Calcutta Act and sec tion 40 of the Suburban Act.

17. After clause (4) of section 66 of the Calcutta Act, and after clause (4) of section 40 of the Suburban Act, the following shall be inserted, namely-

Exposing or keeping articles so as to cause obstruction.

"(4a whoever exposes or keeps any article so as to cause obstruction in any public thoroughfare."

New section 70A (1) for the Calcutia Act.

18. After section 70 of the Calcutta Act, the following shall be inserted, namely:

Refuges for reception of certain classes of convicted beggars.

"70A. (1) The Lieutenant-Governor may, by notification in the Calcutta Casette, declare any institution, situated either in the town of Calcutta or in the suburbs thereof, to be a refuge for the reception of aged, infirm, or incurably diseased persons convicted and sentenced to imprisonment under section 70;

and may, by like notification, cancel any such declaration."

19. After section 40 of the Suburban Act, New section 40A (1) for the Suburban Act the following shall be inserted, namely:

"40. (1) The Lieutenant Governor may, by notification in the Calcutta Cazett, declare any institution, Refuges for reception of certain classes of convicted situated either in the town of Calcutta or in beggars. the suburbs thereof, to be a refuge for the reception of aged, infirm, or incurably diseased persons convicted under clause (17) of section 40, and sentenced to imprisonment under section 48 in lieu of payment of any fine imposed under the said section 40;

and may, by like notification, cancel any such declaration."

Sub-section (2) and (3) for section 70A of the Calcutta Act and section 40A of the Suburban Act.

20. After the said sub-section (1) of section 70A of the Calcutta Act, and after the said sub-section (1) of section 40A of the Suburban Act, the following shall be inserted, namely:—

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- "(2) When any such person is so convicted and sentenced to imprisonment for any term, the Magistrate may, by written order, direct that he be taken to, and detained for the said term in, any refuge notified under sub-section (1) instead of being imprisoned.
- (3) If any such person escapes, before the expiration of the said term, from a refuge to which he has been taken, the Magistrate may cancel the order made under sub-section (1), and may direct that the said person shall be imprisoned, with or without hard labour, for the unexpired portion of the said term "

New section 72 (1) for the Calcutta Act.

- 21. The following sub-section shall be substituted for section 72 of the Calcutta Act, namely:—
- "72. (1) Subject to the restrictions imposed by clause (b) of Power to arrest without sub-section (1) of section 62B in the case warrant.

 of offences there referred to, any Police-officer may arrest without a warrant any person committing in his presence, in any street or public place, any offence punishable under—
 - (a) any section of this Act other than section 68B, or
 - (b) any rule made under this Act, or
 - '(c) any other law for the time being in force,

if such person,-

- (i) after being warned by a Police-officer, persists in committing such offence, or
- (ii) is unknown to such Police-officer, and, when asked by such Police-officer to give his name and address, refuses to give the same, or gives a name or address which such Police-officer has reason to believe to be false, or cannot then and there ascertain to be true, or
- (iii) is unknown to such Police-officer, and his name and address cannot be ascertained then and there, and he refuses to accompany the Police-officer to a police-station on being required so to do.

Explanation.—This sub-section does not restrict the exercise by any Police-officer of any power of arrest conferred upon him by any other law."

New section 43 (1) for the Suburban Act.

22. The following sub-section shall be substituted for section 43 of the Suburban Act, namely:—

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"43. (1) Subject to the restrictions imposed by clause (b) of sub-section (1) of section 30B in the case of Power to arrest without offences there referred to, any Police officer warrant. may arrest without a warrant any person committing in his presence, in any street or public place, any offence punishable under-

- (a) any section of this Act other than section 41A, or
- (b) any rule made under this Act, or
- (c) any other law for the time being in force,

if such person,-

- (i) after being warned by a Police-officer, persists in committing such offence, or
- (ii) is unknown to such Police-officer, and, when asked by such Police-officer to give his name and address, refuses to give the same, or gives a name or address which such Police-officer has reason to believe to be false, or cannot then and there ascertain to be true, or
- (iii) is unknown to such Police-officer, and his name and address cannot be ascertained then and there, and he refuses to accompany the Police-officer to a police-station on being required so to do.

Explanation.—This sub-section does not restrict the exercise by any Police-officer of any power of arrest conferred upon him by any other law."

New sub-section (2) for section 72 of the Calcutta Act and section 43 of the Suburban Act.

- 23. After the said sub-section (1) of section 72 of the Calcutta Act, and after the said sub-section (1) of section 43 of the Suburban Act, the following shall be inserted, namely:—
- "(2) Should the true name and residence of any such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute a recognizance for his appearance before a Magistrate, or, it so required, to furnish sureties, he shall forthwith be forwarded to a Magistrate having jurisdiction."
- 24. For the words "station-house," wherever they occur in sec-Amendment of sections 76 and 77 of the Calcutta Act and sections 45 and 46 of the Suburban Act.

tions 76 and 77 of the Calcutta Act, and for the words "police station-house" in section 45 of the Suburban Act, and for the words "station-house," wherever they occur, in section 46 of the latter Act, the words "police-station" shall be sub-

New section 78A for the Calcutta Act and 47A for the Suburban Act

stituted.

25. The following section shall be inserted in the Calcutta Act as section 78A, and in the Suburban Act as section 47 R. namely:

1910. Act 8.

Power of Commissioner of Police to require attendance, and obtains state. ments of witnesses.

"(1) If, in the course of any investigation, the Commissioner of Police has reason to believe that a cognizable offence has been committed, he may, by order in writing, require the attendance, before himself or before any officer serving

under him, not below the rank of Sub-Inspector, who is investigating a cognizable offence, of any person then being within the limits of the town or suburbs of Calcutta, or within thirty miles of such limits, who, from the information given or otherwise, appears to be acquainted with the facts or circumstances of the case; and such person shall attend as so required.

- (2) The Commissioner of Police or any officer aforesaid may examine orally any person so attending, and may reduce into writing any statement made by him; and such person shall be bound to answer all questions relating to the case put to him by the Commissioner or such officer other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.
- (3) The Commissioner of Police may, in any case, forward to the Superintendent of Police of the district in which any person, from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired; and such Superintendent shall, on receipt thereof, cause such person to be examined orally, and his statement to be reduced into writing, in the same manner, and subject to the same provisions, as if an investigation were being made into such offence in such district, and shall forward the statement reduced into writing to the Commissioner of Police.
- (4) Subject to any rules made by the Lieutenant-Governor with the previous sanction of the Governor-General in Council the Commissioner of Police may, if he thinks fit, order payment, on the part of the Government, of the reasonable expenses of any person residing in the town or suburbs of Calcutta who attends for the purposes of any investigation before himself or any other Policeofficer under this section, and shall order payment as aforesaid of the reasonable expenses of any person not so residing who attends as aforesaid."
- 26. In section 79 of the Calcutta Act, after the words "by such warrant," the following shall be in-Amendment of section 79 serted, namely:-

"Provided that no such warrant shall authorize any Policeofficer below the rank of Sub-Inspector to make any entry or search at night."

New section 80A for the Calcutta Act and 47B for the Suburban Act.

27. The following section shall be inserted in the Calcutta Act as section 80A, and in the Suburban Act as section 47B, namely:-

1910. Act 3. "If information is given on oath to the Commissioner of Police Power to search for perthat any person is confined under such sons wrongfully confined circumstances that the confinement amounts to an offence, and if it is for any reason impracticable to make an application to a Magistrate under section 100 or section 552 of the Code of Criminal Procedure, 1898,* the Commissioner may issue a search-warrant to any Police-officer not below the rank of Sub-Inspector; and the officer to whom such warrant is directed may search for the person indicated in such warrant in accordance with such directions as may be given therein; and the person, if found, shall immediately be taken before a Magistrate, who shall make such order as, in the circumstances of the case, seems proper."

New section 80B for the Calcutta Act.

28. The following section shall be inserted in the Calcutta Act after the said section 80A, namely:—

"80B. (1) An officer in charge of a police-station in the When officer in charge of police-station may require any officer in charge of a police-station in any part of Bengal, whether within or without the town of Calcutta, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

(2) Such officer, on being so required, shall proceed in accordance with the provisions of section 80 of this Act or section 165 of the Code of Criminal Procedure, 1898,* whichever is applicable, and shall forward the thing found (if any) to the officer at whose request the search was made."

New section 8oC for the Calcutta Act and 47C for the Suburban Act.

- 29. The following section shall be inserted in the Calcutta Act as section 80C, and in the Suburban Act as section 47C, namely:—
- "(1) Before any officer makes a search under this Act, he-Procedure in making shall call upon two or more respectable searches. persons to attend and witness the search.
- (2) The search shall be made in the presence of such persons, and a list of all things seized in the course of the search, and of the places in which they are respectively found, shall be prepared by the said officer, and signed by the said witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.
- (3) The occupant of the place searched or some person in his behalf shall, in every instance, be permitted to attend during

the search; and a copy of the list prepared under sub-section (2) signed by the said witnesses shall be delivered to such occupant Act 3. or person at his request."

1910.

New sections 100 and 101 for the Calcutta Act.

30. For sections 100 and 101 of the Calcutta Act, the following shall be substituted, namely:-

Police to take charge of unclaimed moveable property.

"100. (1) The Police shall, for the purpose of safe custody, take temporary charge of—

- (a) all unclaimed moveable property found by them, and
- (b) all moveable property found lying in any public street, if the owner or the person in charge of such property, on being directed to remove the same, refuses or omits to do so within a reasonable time, and may, for the said purpose, take temporary charge of any unclaimed moveable property made over to
- (2) Property of which the Police have taken charge under sub-section (1) shall be handed over to the Commissioner of Police.
- "101. (1) If the said property appears to have been left by a person who has died intestate, and not Disposal of such property to be under two hundred rupees in value, the Commissioner of Police shall communicate with the Administrator-General, with a view to its being dealt with under the Administrator-Generals Act, 1874,* or any other law for the time being in force.
- (2) In every other case, the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf, and establish his claim within six months from the date of such proclamation.
- (3) If the property or any part thereof is subject to speedy and natural decay, or consists of live-stock, or if the property appears to be of less value than five rupees, it may forthwith be sold by auction under the orders of the Commissioner of Police; and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.
- (4) The Commissioner of Police shall, on being satisfied of the title of any claimant to the possession or administration of any property referred to in sub-section (2), order the same to be delivered to him, after deduction or payment of the ex-

1910. Act 3. penses properly incurred by the Police in the seizure and detention thereof.

- (5) The Commissioner of Police may, at his discretion, before making any order under sub-section (4), take such security as he may think proper from the person to whom the said property is to be delivered; and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of such property from the person to whom it may have been delivered pursuant to such order.
- (6) If no person establishes his claim to such property within the period prescribed in sub-section (2), it shall be at the disposal of the Government; and the property, or such part thereof as has not already been sold under sub-section (3), may be sold by auction under orders of the Commissioner of Police."

New sections 102A and 102B for the Calcutta Act, and 49A and 49B for the Suburban Act.

- 31. The following sections shall be inserted in the Calcutta Act as sections 102A and 102B, and in the Suburban Act as sections 49A and 49B, respectively:—
- "A. Any public notice required to be given under any of the Public notices how to be provisions of this Act shall be in writing, given. shall be signed by the Commissioner of Police, and shall be published, in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drum, or by advertising the same in such local newspapers, English or Vernacular, as the Commissioner of Police may deem sit, or by any two or more of these means, and by any other means he may think suitable.
- "B. Whenever, under this Act or any rule made hereunder

 Consent, etc., of Commissioner of Police or or the validity of anything, depends upon or the consent, approval, declaration, opinion, or satisfaction of the Commissioner of Police, or of any other Police-officer, a written document signed by the Commissioner of Police, or by such officer, purporting to convey or set forth such consent, approval, declaration, opinion, or satisfaction, shall be sufficient evidence thereof."

New section 102C for the Calcutta Act and 49C for the Suburban Act.

- 32. (1) The following section shall be inserted in the Calcutta Act as section 102C, namely:—
- "C. Every license, written permission, notice, or other document [not being a summons or warrant or
 search-warrant, or a notification issued
 under sub-section (3) of section 62A, or an order made under
 sub-section (4) of that section, or an order made under section
 78A], required, by this Act or any rule made hereunder, to bear
 the signature of the Commissioner of Police, shall be deemed to

be properly signed if it bears a facsimile of his signature stamped thereon."

1910 Act 3.

- (2) The following section shall be inserted in the Suburban Act as section 49C, namely:—
- "C. Every license, written permission, notice, or other docuStamping of signature. ment [not being a summons or warrant or
 search-warrant, or a notification issued
 under sub-section (3) of section 39A, or an order made under subsection (4) of that section, or an order made under section 47A],
 required by this Act or any rule made hereunder, to bear the signature of the Commissioner of Police, shall be deemed to be
 properly signed if it bears a facsimile of his signature stamped
 thereon."
 - 33. For Form A in the Schedule to the Calcutta Act, and for the Form of Certificate appended to the Suburban Act, the following shall be substituted, namely:—
- "A. B. has been appointed a member of the Calcutta Policeforce, and is vested with the powers, functions, and privileges of a Police-officer.

CALCUTTA:

The

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Commissioner of Police."

Repeal.

34. The enacments specified in columns 1 and 2 of the Schedule are hereby repealed to the extent mentioned in column 3 thereof.

1910. Act 8.

THE SCHEDULE.

١

REPEAL OF ENACTMENTS.

(See section 34.)

1	2	3
No. and Year.	Short title,	Extent of repeal.

Bengal Acts.

II. of 1866	The Calcutta Suburban Police Act, 1866.	In section 2, the words "and men." Section 6.
		In section 16, the word "road."
	İ	Section 35.
		In the opening clause of section 40, the word "public," where it occurs before the word "street," and the word "road."
		In clause (2) of section 40, the words " of any description" and the words " except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary."
		In clause (3) of section 40, the words "carriage, cart, or other."
		Clauses (5) to (9) and (12) of section 40.
		In clause (14) of section 40, the word "public" where it occurs before the word "street."
		In clause (15) of section 40, the word "horses."
		In clause (17) of section 40, the word "road."
IV. of 1866	The Calcutta Police Act, 1866.	In section 8, the words "and men," and the words "with the sanction of the Governor-General of India in Council."
		Section 12.
		In section 32, the word "road."
		Section 58.
		In the opening clause of section 66, the word "public" where it occurs before the word "street," and the word "road."

THE SCHEDULE-concld.

1910. Act 8.

1 ,	2	3
No. and Year.	Short title.	Extent of repeal.

Bengal Acts-concld.

IV. of 1866	•••	The Calcutta Police Act, 1866—concld.	In clause (2) of section 66, the words " of any description" and the words "ex- cept when, in the opinion of the Magis- trate, there may be sufficient moonlight to render such light unnecessary."
			In clause (3) of section 66, the words "carriage, cart, or other."
			Clauses (5) to (9) of section 66.
			In clause (11) of section 66, the words public "and "road."
			Clause (12) of section 66.
			In clause (14) of section 66, the word "public" where it occurs before the word "street."
			In clause (15) of section 66, the word "horses,"
			In section 70, the word " road."
			in section 71, the word "roads."
11. of 1886	•••	The Calcutta and Suburban Police (Amendment) Act, 1886.	Section 4.
II. of 1895	•••	The Calcutta and Suburban Police (Amendment) Act, 1895.	Sections 3 and 4.
, iii. of 1907	•••	The Calcutts and Suburban Police (Amendment) Act, 1907.	
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THE

BENGAL CESS (AMENDMENT) ACT (Ben. Act No. IV.), 1910.

CONTENTS:

SECTIONS.

- z. Short title.
- 2. Amendment of section 4 of Bengal, Act IX. of 1880.
- 3. Amendment of section 12.
- 4. Amendment of section 14.
- 5. Amendment of sections 12, 14, 15, 16 36, 54, and 57.
- 6. New sections 22 and 23—
 22. Valuation by Collector where return untrue or incorrect.
 - 23. Recovery of expense of such valuation.
- 7. Amendment of section 37.
- 8. New Chapter II.-A-

PROCEDURE FOR VALUATION OF LANDS IN RESPECT OF WHICH A RECORD-OF-RIGHTS IS BEING PREPARED, REVISED, OR MAINTAINED.

- Valuation during preparation, revision, or maintenance of recordof-rights.
- 37B Preparation of valuation-roll by Settlement Officer.
- 37C. Method of valuation by Settlement Officer.
- 37D. Powers and functions of Settlement Officer in regard to valuation of rent-free lands.

SECTIONS.

- 37E. Publication of draft valuationroll and hearing of objections.
- 37F. Final publication of valuation-
- 37G. Appeals against entries in valuation-roll.
- 37H. Submission of valuation-roll to Collector, and Collector's procedure thereupon.
- 37I. Term of, and Collector's power to reduce, valuation.
- 9. Amendment of section 41
- 10. Amendment of section 44.
- 11. Amendment of section 46 (2).
- 12. Amendment of section 49.
- New section 52A—
 52A. Certificate of publication of notices under section 52.
- 14. Amendment of section 54.
- 15. New section 72A.
 - 72A. Penalty for omitting to make a return.
- 16. New section QIA-
 - 91A. Payment of commission to tahsildars.
- 17. Partial repeal of section 94.
- 18. Amendment of section 102.
- 19. Amendment of section 104.
- 20. Amen ment of section 105.
- 21. Amendment of sections 112 and 113.

BEN. ACT NO. IV. OF 1910.

1910. Act 4.

The Bengal Cess (Amendment) Act, 1910.

[PUBLISHED IN THE "CALCUTTA GAZETTE" OF THE 25TH MAY 1910.]

An Act further to amend the Cess Act, 1880.*

WHEREAS it is expedient further to amend the Cess Act, 1880,* in the manner hereinafter appearing;

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Bengal Cess (Amendment) Act, 1910.
- 2. (1) The words "revenue or," in both places in which

 Amendment of section they occur in the definition of "annual value
 4 of Bengal Act IX. of of any land, estate, or tenure" in section
 4 of the Cess Act, 1880,* are hereby repealed.
- (2) To the said definition, the following shall be added, namely:—
- "Explanation.—For the purposes of the foregoing definition, whatever is lawfully payable or deliverable, or would, on a reasonable assessment be fawfully payable or deliverable, in money or in kind, directly to the Government,—
 - (a) by raiyats cultivating land in a Government estate—on account of the use or occupation of the land, or
 - (b) by other persons in the actual use and occupation of land in such an estate,

shall be deemed to be 'rent.'"

- (3) After the definition of "the Collector of the district" in the same section, the following definition shall be inserted, namely:—
- "'the Settlement Officer' means the Revenue-officer appointed by the Local Government, under the designation of Settlement Officer or Assistant Settlement Officer, for the purpose of preparing or revising records-of rights under Chapter X. of the Bengal Tenancy Act, 1885,† or any other law for the time being in force in respect of the lands in any local area, estate, or tenure, or part thereof,

and includes any officer appointed by the Local Government to maintain records-of-rights so prepared or revised."

^{*} Ben. Act IX. of 1880.

3. In section 12 of the Cess Act 1880,* after the words "this Amendment of section," the words, figures, and letter "or in Chapter IIA." shall be inserted.

Amendment of section 14.

4. In section 14 of the said Act, after the words "has ordered," the words and figures "under section 12" shall be inserted.

- 5. (1) In sections 12, 14, 15, 16, 36, 54, and 57 of the said

 Amendment of sections Act, for the words "Lieutenant-Gover=

 12, 14, 15 16, 36, 54, and nor," wherever they occur, the words

 57. "Board of Revenue" shall be substituted.
 - (2) In sections 12 and 15 of the said Act, for the word "he," wherever it occurs, the word "they" shall be substituted.

New sections 22 and 23.

6. For sections 22 and 23 of the said Act, the following shall be substituted:—

Valuation by Collector by him in writing, that any return made where return untrue or incorrect, he correct may, by such ways and means as to him may seem expedient, ascertain and fix the annual value of the lands in respect of which the return has been made:

Provided that no such action shall be taken without giving notice to the person who made the return, and allowing him an opportunity to prove that the return is not untrue or incorrect.

"23. The expense of any valuation made by the Collector Recovery of expense of under section 22 may be recovered, in the such valuation.

manner prescribed in sections 98 and 99, from the person by whom the untrue or incorrect return was made:

Provided that, where such return relates to lands for which no rent is payable by cultivating raiyats to the person who made the return, and the annual value of such lands, as determined by the Collector under section 22, does not exceed by one-fifth the value stated in such return, the said expense shall be borne by the District Road Fund."

Amendment of sec.
7. In section 37 of the said Act for the words "Board of Revenue," the word "Commissioner" shall be substituted.

New Chapter IIA.

8. After section 37 of the said Act, the following shall be inserted, namely:—

"CHAPTER IIA.

1910, Act 4.

- "PROCEDURE FOR VALUATION OF LANDS IN RESPECT OF WHICH ACt 4.
 A RECORD-OF-RIGHTS IS BEING PREPARED, REVISED, OR MAINTAINED.
- "37A. (1) Notwithstanding anything contained in Chapter II.,
 Valuation during prepa the Board of Revenue may, if they think fit,
 ration, revision, or maintenance of record-of rights. the Settlement Officer of any local area,
 estate, or tenure or part thereof in respect of which—
 - (a) a record of-rights is being prepared or revised under Chapter X. of the Bengal Tenancy Act, 1885,* or any other law for the time being in force, or
 - (b) a record-of-rights so prepared or revised is being maintained by an officer appointed by the Local Government in that behalf.
- (a) Every valuation made under sub-section (1) shall take effect from the beginning of such year as the Board of Revenue may direct:

Provided that no such valuation shall take effect before the expiration of the period of five years prescribed by section 36 for the continuance of the last preceding valuation (if any).

- "37B. (1) When an order has been issued by the Board of Preparation of valuation. Revenue under section 37A, the Settlement roll by Settlement Officer. Officer shall, at the time of preparing or revising the record-of-rights for the local area, estate, or tenure, or part thereof, to which such order relates prepare a valuation-roll showing the annual value of all lands comprised within such local area, estate, or tenure.
- (2) Where the lands of a local area, estate, or tenure, in respect to which a valuation-roll is to be prepared under sub-section (1), are situate in more than one distirct, the Settlement Officer may prepare the valuation-roll in respect of the lands lying in one district; and valuation may be effected and brought into force for the portion of the local area, estate, or tenure situate in such district in accordance with the procedure hereinafter prescribed.
- "37C. The Settlement Officer shall, without calling for returns

 Method of valuation by from the holders of estates or tenures,

 Settlement Officer. ascertain and fix the annual value
 - on the basis of the rent which has been entered as payable therefor in the record-of-rights, and
 - (b) in all other cases—by such ways and means as the Board of Revenue may prescribe in that behalf.

1910 Act 4.

Powers and functions of Settlement Officer in regard to valuation of rent-free lands.

"37D. Notwithstanding anything contained in section 37C, the Settlement Officer may, for the purpose of ascertaining or fixing the annual value of any land held without payment of rent, other than land mentioned in section 33, and

other than estates entered on the general register of revenue-free lands of the district, exercise any of the powers and functions which are exercisible by a Collector under Chapter IV.

Publication of draft valu-"37E. When a draft valuation-roll has ation roll and hearing of been prepared, the Settlement Officerobjections.

- (a) shall publish the draft together with, and in the manner and for the period prescribed by the law for the time being in force for the publication of, draft record-ofrights, and
- (b) shall receive and consider objections to entries in the valuation-roll at the time, and in the manner, prescribed by such law for receiving and considering objections to entries in draft records-of-rights.
- "37F. When such objections have been considered and disposed of according to such rules as the Final publication of valu-Local Government may prescribe, the Settlement Officer snall finally frame the valuation-roll, and shall cause it to be finally published, and thereafter shall refuse to receive and consider any objections which may be made to any entry therein:

Provided that, where any material alteration has been made in the record of-rights in accordance with any decision under section 104H, section 105, section 105A, or section 106 of the Bengal Tenancy Act, 1885,* or under any other law for the time being in force, a corresponding correction shall be made in the valuationroll after its final publication.

- "37G. (1) Where the Settlement Officer has ascertained and Appeals against entries in fixed the annual value of any land in the manner described in clause (a) of section valuation-roll. 37C, no appeal shall lie against the entry of such annual value in the valuation-roll; and the entry in the record-of-rights of the amount of rent payable in cash for such land shall, for the purposes of this Act, be final.
- (2) Where the Settlement Officer has ascertained and fixed the annual value of any land by any of the ways and means prescribed under clause (b) of section 37C, or in exercise of powers referred to in section 37D, an appeal shall, if preferred within one month from the final publiction of the valuation-roll, lie to such authority as the Local Government may by rule prescribe.

(3) The Commissioner may, on application made to him within one month from the date of the decision of the appellate authority in an appeal under sub-section (2), revise such decision.

1910. Act 4.

Submission of valuationroll to Collector, and Collector's procedure thereupon.

"37H. (1) When the valuation-roll has been finally published, the Settlement Officer shall submit it to the Collector.

- (2) On receipt of such valuation-roll, the Collector shall note thereon the total annual value of each estate, and of the tenures therein comprised, and the amount of revenue annually payable to the Government on which the deduction specified in section 41 is to be calculated.
- (3) The Collector shall not entertain any objection against the total annual value of any estate or tenure which has been calculated under sub-section (2), except on the ground that an error or omission has been made in calculating the same.
- "37l. The provisions of section 36 with regard to the term of Term of, and Collector's a valuation, and of section 37 with regard power to reduce, valuation. to the power of the Collector to reduce a valuation, shall apply to a valuation made under this Chapter."
- 9. To section 41 of the Cess Act, 1880* the following shall be added, namely:—

"Notwithstanding anything hereinbefore in this section contained, all persons to whom chaukidari chakran lands have been transferred under Part II. of the Village Chaukidari Act, 1870,† or the heirs or assigns of such persons, shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of such lands at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rate or rates for every rupee of the assessment approved under the said Part as payable in respect of such lands."

10. After sub-section (4) of section 44 of the Cess Act, 1880,* the following shall be inserted, namely:—

"(4a) Whenever a recorded sharer of a joint revenue-paying estate applies to the Collector, under section 10 or section 11 of Act XI. of 1859 or section 70 of Bengal Act VII of 1876, for the opening of a separate account of the land-revenue payable by him he may include in his application a request for the simultaneous opening of a separate account of the road cess and public works cess payable by him.

^{*} Ben. Act IX. of 1880.

1910. Act 4.

- "(4b) The Collector may thereupon issue a notice to each of the several sharers of such estate, simultaneously with the notice issued under any of the aforesaid sections, informing him that, unless any objection is preferred to the Collector within six weeks of the service of the notice, the amount of the cesses which the whole estate is liable to pay will, from the date on which such separate account is opened, be apportioned among such sharers severally, in proportion to the amount of Government revenue for the payment of which each share is entered in the separate account as being liable."
- 11. In sub-section (2) of section 46 of the Cess Act, 1880,*

 Amendment of section 46 for the words from "and the Board of Revenue may" to the end of the sub-section the following shall be substituted, namely:—

"and the Collector, if he becomes aware that any separate account opened under sub-section (1) does not represent existing facts, may, after service of a notice on the recorded proprietor or manager, and after hearing any objection which may be preferred within six weeks of such service, close the account?"

Amendment of section 49

12. In section 49 of the said Act, for the words "fifteen days," the words "six weeks" shall be substituted.

New section 52A.

13. After section 52 of the said Act, the following shall be inserted, namely:—

"52A. Whenever any notice has been duly published under Certificate of publication section 52, the Collector shall sign a certiof notices under section 52. ficate to that effect, and such certificate shall be conclusive proof that the publication has been duly made."

Amendment of section 54. For clause (1) of the concluding paragraph of section 54 of the said Act, the following shall be substituted, namely:—

"(1) a statement of the quantity or a description of the land as entered in the Collector's valuation-roll."

New section 72A.

15. After section 72 of the said Act, the following shall be inserted, namely:—

"72A. (1) Any owner, chief agent, manager, or occupier, who,
Penalty for omitting to without sufficient cause being shown to the
make a return. satisfaction of the Collector, refuses or
omits to lodge the required return in the office of the Collector
within two months from the date of the service upon him of a
notice under section 72, or within any extended time which may
have been allowed by the Collector for lodging such return, shall
be liable to a fine which may extend to fifty rupees for every day

after expiration of such time or extended time until such return is furnished, or until the annual net profits of the property in respect of which the notice has been served shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

1910. Act 4.

- (a) The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or section 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal unless the Commissioner otherwise directs.
- (3) Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner."
 - New section 91A: 16. After section 91 of the said Act, the following shall be inserted, namely:—
- "91A. The Collector may, with the sanction of the Commis-Pa, ment of commission sioner, pay, to any person appointed by him to tahsildars. to collect the road cess and public works cess, such percentage of the total amount collected by such person as to him may seem fit."
- 17. In section 94 of the said Act, the words from "And, if the person so prosecuted" to the end of the section are hereby repealed.
- 18. In section 102 of the said Act, after the words and figures section 78 and," the words, figures, and letter "subject to anything contained in Chapter IIA" shall be inserted.

Amendment of section 104.

19. In section 104 of the said Act, after the figures "26," the figures "46 (2)" shall be inserted.

Amendment of section 105.

20. For section 105 of the said Act, the following shall be substituted, namely:—

Revision of orders by Collector, and control and supervision by Commissioner and Board.

"105. Notwithstanding anything hereinbefore contained,—

- (a) the Collector may at any time revise any order made under this Part by himself, or by any officer subordinate to him, unless an appeal against such order has been preferred, and
- (b) all proceedings of the Collector, or of any officer of a lower grade, under this Part, shall be subject to the

1910. Act 4.

general control and supervision of the Commissioner, and of the Board of Revenue, and all proceedings of the Commissioner under this Part shall be subject to the general control and supervision of the Board of Revenue."

Amendment of sections 21. In section 112 and 113 of the said Act, for the words "Lieutenant-Governor," the word "Commissioner" shall be substituted.

BEN. ACT NO. I. OF 1911.

Sampaipur Repealing and Amending (Rates and Cosses) Act, 1911.

[Published in the Calcutta Gazette of the 15th March, 1911.]

An Act to repeal and amend in the district of Sambalpur certain enactments relating to abolished rates and cesses.

WHEREAS certain rates and cesses leviable in the district of Sambalpur have been abolished, and it is therefore expedient to repeal or amend the enactments specified in the Schedule;

and whereas the previous sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Sambalpur Repealing and Amending (Rates and Cesses) Act, 1911.
- 2. The enactments specified in the Schedule shall be repealed

 Enactments in Schedule or modified to the extent and in the manner repealed or modified mentioned in the third column thereof.

^{*} Stat. 55 & 56 Vict, c. 14.

SAMBALPUR REPEALING & AMENDING ACT. 1513

THE SCHEDULE.

1911

Number, year and short title.	Section.	Extent of repeal or modification.
Act X. of 1878 (The Central Provinces Additional Rates Act, 1878).	•••	The whole Act to be repealed.
Act XVII. of 1878 (The North- ern India Ferries Act, 1878).	17	For sub-clause (ii) of clause (e) the following to be substituted:-
		"(ii) be applied to any local works likely to promote the public health, comfort or convenience."
Act XVIII. of 1881 (The Central, Provinces Land-revenue Act, 1881).	7 7	In clause (a) the word "patwari" to be repealed.
	138	In clause (b) the word "patwaris" to be repealed.
	141	In clause (a) the words "village- patwari and" to be repealed.
•	143A	In clause (c) the words "patwari and" to be repealed; and for the words "they are" the words "he is" to be substituted.
	146A	The whole section to be repealed.

1911.

BEN. ACT NO. II. OF 1911.

Act 2.

The Bengal Vaccination (Amendment) Act, 1911.

CONTENTS.

SECTIONS.

- z. Short title and local extent.
- 2. Power to extend Act.
- 3. Power to suspend Act.
- 4. Amendment of section 2 of Bengal Act V. of 1880.
- 5. Repeal of portions of section 2.
- 6. Amendment of section 3.
- 7. Amendment of section 4.
- 8. Amendment of section 5.
- 9. Amendment of section 6.
- 10. Amendment of section 7.

SECTIONS.

- 11. Amendment of section 8.
- 12. Amendment of section 10.
- 13. Amendment of sections 13A, 29A and 20B.
- 14. Amendment of sections 15, 16 and 33.
- 15. Amendment of section 19, 16. Amendment of section 28.
- 17. Amendment of Schedule A.
- 18 Amendment of Schedule B.
- 19 Amendment of Schedule C. 20. Amendment of Schedule E.

BEN. ACT NO. II. OF 1911.

The Bengal Vaccination (Amendment) Act, 1911.*

[Published in the Calcutta Gazette of the 22nd March 1911.]

An Act further to amend the Bengal Vaccination Act, 1880.

WHEREAS it is expedient further to amend the Bengal Vaccination Act, 1880, in manner hereinafter appearing; It is hereby enacted as follows:-

Short title and local extent.

- 1. (1) This Act may be called the Bengal Vaccination (Amendment) Act, 1911; and
- (2) It applies in the first instance only to—
 - (a) Calcutta, as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1899,‡
 - (b) the port of Calcutta, and
 - (c) the Cossipore-Chitpur, Garden Reach, Howrah, Maniktolla, South Suburban and Tollygunge Municipalities.

The whole Act has been extended to Eastern Bengal and Assam by Ben. Act I. of 1914. † Ben. Act V. of 1880.

Ben. Act III. of 1899.

2. (1) The Local Government may, by notification published in the Calcutta Gazette, declare its intention to extend this Act or any portion thereof to any town or selected area not mentioned in section 1, sub-section (2).

1911. Act 2.

- (s) Any inhabitant of any such town or area who objects to such extension may, within a period of six weeks from such publication, send his objection in writting to a Secretary to the Government of Bengal; and the Local Government shall consider all objections so sent.
- (3) After the expiration of the said period, the Local Government, if no objections have been so sent, or if it considers that the objections so sent are insufficient, may, by a like notification, effect the proposed extension.
- (4) The substance of every notification under sub-section (1) or sub-section (3) shall be proclaimed and notified in the vernacular, within the town or area affected, by such means and in such manner as the Local Government may direct.

Power to suspend Act.

3. The Local Government may, by notification in the Calcutta Gazette, suspend the operation of this Act in any place.

4. After the definition of "public vaccinator" in section 2 of Amendment of section 2 the Bengal Vaccination Act, 1880,* the of Bengal Act V. of 1880. following shall be inserted, namely:—

"'Inspector' means a person authorized by the Superintendent of Vaccination to exercise all or any of the functions of an Inspector under this Act."

Repeal of portions of section 2 of the said Act are hereby repealed namely:—

- (1) the words "or specially licensed by the Lieutenant-Governor to practise vaccination and grant certificates under the provisions of this Act," in the definition of "medical practitioner," and
- (2) the word "either" and the words "or by inoculation," in the definitions of "unprotected child" and "unprotected person."

Amendment of section 3. 6. In section 3 of the said Act,—

- (1) for the words "one year," in the first place in which they occur, the words "six months" shall be substituted, and
- (2) the following words shall be repealed, namely:—

"or, if the child be at the time of its arrival less than one year old, within one year and three months after

1911. Act 2. its birth; and the parent or guardian of every unprotected child living in such place at the date of this Act coming into force therein, and whose age at such date exceeds one year, but does not exceed fourteen years, shall, within six months from the said date."

Amendment of section 4.

- 7. In section 4 of the said Act,-
- (1) for the words "the same day in the following week" the following shall be substituted, namely:—
 - "a day not less than seven or more than ten days;"
- (2) for the words "by the operator or by any person deputed for that purpose by the Superintendent of Vaccination" the following shall be substituted, namely:—
 - "by the operator (if a medical practitioner) or by an Inspector;"
- (3) for the words "and it shall be the duty of any public vaccinator who has vaccinated a child elsewhere than at a public vaccine-station to visit the child at the time and for the purpose above mentioned whether he is requested to do so or not, unless the Superintendent of Vaccination has deputed some other person to act for such public vaccinator in this behalf" the following shall be substituted, namely:—
 - "and, when any public vaccinator has vaccinated a child elsewhere than at a public vaccine-station, an Inspector shall visit the child at the time and for the purpose above mentioned, whether he is requested to do so or not;"
- (4) for the words "the public vaccinator" the words "the Inspector" shall be substituted; and
- (5) for the words "a public vaccinator" the words "an Inspector" shall be substituted.

Amendment of section 5.

- 8. In section 5 of the said Act,-
- (1) for the words "public vaccinator" in both places in which they occur, the word "Inspector" shall be substituted, and
- (2) for the words "three months," in both places in which they occur, the words "one month" shall be substituted.
- Amendment of section 6.

 9. For section 6 of the said Act the following shall be substituted, namely:—
 - "6. (1) If any Inspector or medical practitioner finds-

Procedure where child is found to have had small-pox or to be insusceptible of successful vaccination.

(a) that a child brought for vaccination has already had small-pox, or

(b) that a child who has been three times unsuccessfully 1911. vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form in Schedule B hereto annexed or to the like effect.

Act 2.

- (2) If the Superintendent is satisfied that such child has already had small-pox, or is insusceptible of successful vaccination, he shall endorse such certificate.
- (3) Such endorsement shall operate as an exemption from liability to vaccination,—
 - (i) in case (a) in sub-section (1)—absolutely, and
 - (ii) in case (b) in that sub-section—for a period of twelve
- (4) Upon the expiration of the said period, the parent or guardian of such child shall forthwith cause the child to be vaccinated again;
- and, if an Inspector or a medical practitioner finds after two further unsuccessful vaccinations that the child is insusceptible of successful vaccination, he shall deliver to the parent or guardian a further certificate under his hand, according to the form of Schedule B hereto annexed, or to the like effect:
- and, if the Superintendent of Vaccination be again satisfied that the child is insusceptible of successful vaccination, he shall endorse such certificate, and such endorsement shall operate as an absolute exemption from liability to further vaccination."
- 10. In section 7 of the said Act, for the words "Every public vaccinator or medical practitioner who shall Amendment of section 7. have performed the operation of vaccination upon any child and shall have ascertained that the same has been successful" the following shall be substituted, namely:-
- "When a public vaccinator or medical practitioner has performed the operation of vaccination upon any child, and an Inspector or such practitioner has ascertained that the same has been successful, such Inspector or practitioner, as the cases mav be."
- Amendment of section 8. 11. In section 8 of the same Act,—
 - (1) for the words "public vaccinator," where they first occur, the word "Inspector" shall be substituted, and
 - (2) after the word "nor" the words "by any public vaccinator" shall be inserted.

12. In section 10 of the said Act, after Amendment of section 10. the word "assistants" the words "or any Inspector" shall be inserted.

- 1911.

 Act 2. Amendment of sections 13A, 29A and 29B of the said Act, after the words "public vaccinator" the words "or inspector" shall be inserted.
 - 14. In sections 15, 16 and 33 of the said Act, after the words

 Amendment of sections "public vaccinators," where ver they occur, the words "and Inspect ors" shall be inserted.
 - 15. In section 19 of the said Act, for the words "public vaccinator" the word "Inspector" shall be substituted.
 - 16. In clause (a) of section 28 of the said Act, before the words "after vaccination" the words "to the operator (if a medical practitioner) or to an Inspector" shall be inserted.

Amendment of Schedule A.

17. In Schedule A to the said Act,-

- (1) for the words "three months" the words "one month" shall be substituted, and
- (2) for the words "Public Vaccinator" the word "Inspector" shall be substituted.

Amendment of Schedule B.

18. For Schedule B to the said Act the following shall be substituted, namely:—

"SCHEDULE B.

(See section 6.)

I, the undersigned, hereby certify that , the child of , has already had small-pox

, residing at

(or, as the case may be)

that I have (or a public vaccinator has) three times (or twice as the case may be) unsuccessfully vaccinated , the child , residing at and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this

day of 19.

(Signature of Medical Practitioner or Inspector.)

(Endorsement by Superintendent of Vaccination.)"

Amendment of Schedule C. 19. In Schedule C to the said Act,-

- (1) after the words "by me" the words "(or by a public vaccinator)" shall be inserted, and
- (2) for the words "Public Vaccinator" the word "Inspector" shall be substituted.

Amendment of Schedule E.

20. In Schedule E to the said Act, -

1911. Acts 2

- (1) for the words "one year" the words "six months" shall be substituted, and
- (2) for the words "the public vaccinator," in the fourth place in which they occur, and for the words "a public vaccinator," the words "an Inspector" shall be substituted.

BEN. ACT NO. III. OF 1911,

The Bengal Local Government Act, 1911.

[PUBLISHED IN THE CALCUTTA GAZEITE OF THE 13TH SEPTEMBER, 1911.]

An Act to transfer functions of the Lieutenant-Governor of Bengal to the Lieutenant-Governor in Council.

WHEREAS the Governor-General in Council has, with the approval of the Secretary of State in Council, by Proclamation No. 5278, dated the 18th November, 1910, made under section 3 of the Indian Councils Act, 1909,* created a Council for the purpose of assisting the Lieutenant-Governor in the executive government of the Province of Bengal;

And whereas it is expedient to direct that the functions of the Lieutenant-Governor under enactments made by authorities in British India shall, with certain exceptions, be discharged by the Lieutenant-Governor in Council;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,† to the passing of this Act;

It is hereby enacted as follows:-- >

Short title.

1. This Act may be called the Bengal Local Government Act, 1911.

2. All functions of the Lieutenant-Governor of Bengal under

Discharge of functions of Lieutenant-Governor by the Lieutenant-Governor in Council.

British India, or under any notification, order, scheme, rule, by-law or form issued, made or prescribed under any such enactment, shall be discharged by the Lieutenant-Governor in Council:

^{* 9} Bdw. 7, c. 4.

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Provided that the Lieutenant-Governor may, by written order, with the previous sanction of the Governor-General in Council, direct that any such function shall be discharged by the Lieutenant-Governor personally.

- 3. (1) Save in cases where an officer is specially empowered Signature of orders and by or under any enactment other than this proceedings.

 Act to sign an order of the Lieutenant-Governor, every order and proceeding of the Lieutenant-Governor in Council or the Lieutenant-Governor shall be signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of Bengal.
- (2) Every order and proceeding so signed shall be presumed to have been issued in conformity with—
 - (a) section 2, or
 - (b) the orders made by the Lieutenant-Governor under the proviso to that section, or
 - (c) the rules and orders made by the Lieutenant-Governor, with the consent of the Governor-General in Council, under section 3, sub-section (3), of the Indian Councils Act, 1909,* for the more convenient transaction of business in his Executive Council,

as the case may be.

4. All orders and proceedings under any enactment, notifica-Validation of past orders tion, order, scheme, rule, by-law or form and proceedings. referred to in section 2, which were required by law to be issued by the Lieutenant-Governor of Bengal and have, before the commencement of this Act, been issued in the name of the Lieutenant-Governor of Bengal in Council, shall be deemed to be as valid as if they had been issued in the name of the Lieutenant-Governor.

⁹ Edw. 7, c. 4.

CHOTA NAGPUR BNCUMBERED ESTATES ACT. 1521

BEN. ACT NO. IV. OF 1911.

1911.

The Chota Nagpur Encumbered Estates (Amendment Act, 1911.

Act 4

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 13TH SEPTEMBER, 1911.]

An Act further to amend the Chota Nagpur Encumbered Estates
Act, \(876.**

WHEREAS it is expedient further to amend the Chota Nagpur Encumbered Estates Act, 1876:

And whereas the previous sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1802,† to the passing of this Act;

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Chota Nagpur Encumbered Estates (Amendment) Act, 1911.
- 2. After section 2A of the Chota Nagpur Encumbered Estates
 Insertion of new section Act, 1876,* the following shall be inserted,
 aB in Act VI. of 1876.

 namely:—
- "2B. At any time after the receipt of an application under Power of Commissioner section 2 from or in the case of any holder, to prohibit sale of immove the Commissioner may, by order, prohibit able property the sale of the immoveable property of such holder, or any portion thereof, in execution of any decree or order of any Civil or Revenue Court, until the passing of final orders on such application, either rejecting it or vesting the property in a manager."
- 8. In the concluding paragraph of section 12 of the said Act,
 Amendment of section after the words "the publication of the order

 12. mentioned in section 2" the words "or the making of the order (if any) mentioned in section 2B" shall be inserted.

† Stat. 55 & 56 Vict., c. 14.

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^{*} Act VI. of 1876

BEN. ACT NO. V. OF 1911.

The Calcutta Improvement Act, 1911.

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BEN. ACT NO. V. OF 1911.

The Calcutta Improvement Act, 1911.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 20TH SEPTEMBER, 1911.]

An Act to provide for the Improvement and Expansion of Calcutta.

Whereas it is expedient to make provision for the improvement and expansion of Calcutta by opening up congested areas, laying out or altering streets, providing open spaces for purposes of ventilation or recreation, demolishing or constructing buildings, acquiring land for the said purposes and for the rehousing of persons of the poorer and working classes displaced by the execution of improvement schemes, and otherwise as hereinafter appearing;

And whereas it is expedient that a Board of Trustees should be constituted and invested with special powers for carrying out the objects of this Act;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,* to the provisions of this Act which affect Acts passed by the Governor-General of India in Council;

And whereas the sanction of the Governor-General has also been obtained, under section 43 of the Indian Councils Act, 1861,† to the enactment of the provisions of Chapter V. of this Act, relating to taxation;

It is hereby enacted as follows:--

CHAPTER I.

PRELIMINARY.

Short title, commence.

1. (1) This Act may be called the Catement and extent.

cutta Improvement Act, 1911.

- (2) It shall come into force on such day as the Local Government may, by notification, direct.
- (3) Except as otherwise hereinafter provided, this Act shall extend only to the Calcutta Municipality; but any provision which extends only to the Calcutta Municipality may be extended by the Local Government, entirely or n part, by notification, under the procedure prescribed by section 148, to any specified area in the neighbourhood of that Municipality.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "the Board" means the Board of Trustees for the Improvement of Calcutta, constituted under this Act:

^{* 55 &}amp; 56 Vict., c. 14.

- (b) "the Calcutta Municipality" means "Calcutta" as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1899;**
- (c) "Chairman" means the Chairman of the Board;
- (d) "the Corporation" means the Corporation of Calcutta constituted under the said Calcutta Municipal Act, 1899;
- (e) "the General Committee" means the General Committee constituted under the said Calcutta Municipal Act, 1899;
- (f) "improvement scheme" means a general improvement scheme or a street scheme, or both;
- (g) "land" has the same meaning as in clause (a) of section 3 of the Land Acquisition Act, 1894;†
- (h) "municipal assessment-book" means the assessment-book kept under section 164 of the Calcutta Municipal Act, 1899,‡ or the valuation and rating list prepared under section 103 of the Bengal Municipal Act, 1884;§
- (j) "notification" means a notification published in the Calcutta (azette;
- (k) "Secretary to the Board" means the person for the time being appointed by the Board to discharge the functions of Secretary, to the Board;
- (1) the "Tribunal" means the Tribunal constituted under section 72;
- (m) "Trustee" means a Member of the Board; and
- (n) the expressions "building line," "drain," "public street" and "street alignment" have the same meaning as in clauses (3), (16), (37) and (47), respectively, of section 3 of the Calcutta Municipal Act, 1899.

CHAPTER II.

THE BOARD OF TRUSTEES.

Constitution of the Board.

3. The duty of carrying out the provisions of this Act shall,

Creation and incorpora. subject to the conditions and limitations tion of Board.

hereinafter contained, be vested in a Board, to be called "The Trustees for the Improvement of Calcutta"; and

^{*} Ben. Act III. of 1899.

§ Ben. Act III. of 1884.

Ben. Act III. of 1899.

[†] Act I. of 1894. † Ben. Act III. of 1899,

such Board shall be a body corporate and have perpetual succession and a Common Seal, and shall by the said name sue and be such.

Constitution of the Board.

4. The Board shall consist of eleven Trustees, namely,—

- (a) a Chairman,
- (b) the Chairman of the Corporation,
- (c) three other members of the Corporation,
- (d) a member of the Bengal Chamber of Commerce,
- (e) a member of the Bengal National Chamber of Commerce, and
- (f) four other persons.
- 5. The Chairman and the four persons referred to in clause (1) of section 4 shall be appointed by the Local Government by notification.

8x-officio Trustee.

6. The Chairman of the Corporation shall be a Trustee ex officio.

- 7. (1) The three members of the Corporation referred to in clause (c) of section 4 shall be elected as follows, namely,—
 - (a) one by the Corporation,
 - (b) one by the Ward Commissioners, and
 - (c) one by the Commissioners appointed under sub-section
 (2) of section 8 of the Calcutta Municipal Act, 1899.*
- (2) The member of the Bengal Chamber of Commerce referred to in clause (d) of section 4 shall be elected by that Chamber.
- (3) The member of the Bengal National Chamber of Commerce referred to in clause (e) of section 4 shall be elected by that Chamber.
- (4) The Secretary to the Corporation, the Secretary to the Bengal Chamber of Commerce and the Secretary to the Bengal National Chamber of Commerce shall respectively make a return, in duplicate, to the Chairman, setting forth the name in full of every person elected under this section; and the said return shall be published by notification under the signature of the Chairman.
- 8. If any of the bodies of electors referred to in section 7 does
 Appointment in default of not, by such date as may be prescribed by
 election.
 rule made in that behalf under section 137
 elect a person to be a Trustee, the Local Government shall, by
 notification appoint a person belonging to such body to be a Trustee;

and any person so appointed shall be deemed to be a Trustee as if he had been duly elected by such body.

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Disqualifications for being appointed or elected a Trustee

9. (1) A person shall be disqualified for being appointed or elected a trustee if he—

- (a) has been sentenced by any Court for any non-bailable offence, such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the Local Government is hereby empowered to make, if it thinks fit, in this behalf; or
- (b) is an undischarged insolvent;
- (c) holds any office or place of profit under the Board; or
- (d) has, directly or indirectly, by himself or by any partner, employer or employé, any share or interest in any contract or employment with, by, or on behalf of, the Board, or
- (e) is a director, or a secretary, manager or other salaried officer, of any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board.
- (2) But a person shall not be disqualified as aforesaid, or be deemed to have any share or interest in such contract or employment as aforesaid, by reason only of his having a share or interest in—
 - (i) any sale, purchase, lease, or exchange of land, or any agreement for the same; or
 - (ii) any agreement for the loan of money, or any security for the payment of money only; or
 - (iii) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or
 - ceeding two thousand rupees in any one financial year, of any article in which he trades;

or by reason only of his having a share or interest, otherwise than as director, or secretary, manager or other salaried officer, in any incorporated company which has any share or interest in any tontract or employment with, by, or on behalf of, the Board.

- 10. While any person is holding the office of Chairman he
 The Chairman to be a shall not hold any other salaried office, and
 wholetime officer. subject to any exceptions permitted by the
 Local Government, shall devote his whole time and attention to his
 duties under this Act.
 - 11. (1) The Chairman shall receive such monthly salary, not exceeding three thousand rupees, as may be fixed by the Local Government:

Provided that, if the Chrirman, after having held his office for three years is reappointed for a further term of not less than two years, the Local Government may direct that his monthly salary be increased to any sum not exceeding three thousand five hundred rupees.

- (2) The word "salary," as used in this section, excludes allownces to which the Chairman may be entitled and any contribution payable on his account under any general or special orders of the Government for regulating the transfer of Government servants to foreign service.
- (3) The Local Government may, if it thinks fit, direct the payment to the Chairman of a house-rent and conveyance allowance, not exceeding five hundred rupees per mensem, in addition to his salary.
- 12. (1) The Local Government may, after consulation with the

 Leave of absence or deputation of the Chairman.

 Board, grant leave of absence to the Chairman, or depute him to other duties, for such period as it thinks fit.
- (2) The allowance (if any) to be paid to the Chairman while absent on leave or deputation shall be such amount, not exceeding his salary, as may be fixed by the Local Government:

Provided that, if the Chairman is a Government officer, the amount of such allowance shall be such as he may be entitled to under any general or special orders of the Government for regulating the transfer of Government servants to foreign service.

- 13. (1) Whenever the Chairman is granted leave of absence or Appointment, etc., of actoring Chairman. deputed to other duties, the Local Government may appoint a person to act as Chairman.
- (2) The salary and house-rent and conveyance allowance (if any) of any person appointed to act as Chairman shall be fixed by the Local Government, subject to the provisions of section II.
- (3) Any person appointed to act as Chairman shall exercise the powers and perform the duties conferred and imposed by and under this Act on the Chairman, and shall be subject to the same liabilities, restrictions and conditions as the Chairman.
- 14. The Board may permit any Trustee, other than the Chair-Leave of absence to other man or the Chairman of the Corporation to Trustees. absent himself from meetings of the Board for any period not exceeding six months.

Removal of Trustees.

15 (1) The Local Government may, by notification, declare that any Trustee shall cease to be a Trustee—

(a) if he has acted in contravention of section 23, or

- (b) if he has been absent from, or is unable to attend, the meetings of the Board for any period exceeding six consecutive months, or
- 1911. Act 5
- (c) if he has, without the permission of the Board, been absent from the meetings of the Board for any period exceeding three consecutive months, or
- (d) if he is a salaried servant of the Government, and if his continuance in office as a Trustee is, in the opinion of the local Government, undesirable.
- (2) The Local Government shall, by notification, declare that a Trustee shall cease to be a Trustee—
 - (i) if he has become disqualified for appointment or election as a Trustee for any of the reasons mentioned in section g; or
 - (ii) it he was elected or appointed as being a member of the Corporation, the Bengal Chamber of Commerce or the Bengal National Chamber of Commerce, and if he is, at the date of such notification, no longer a member of the Corporation or such Chamber, as the case may be.
- (3) If at any time it appears to the Local Government that the Chairman has shown himself to be unsuitable for his office, or has been guilty of any misconduct or neglect which renders his removal expedient, it may, by notification, declare that the Chairman shall cease to hold office as such.
- 16. If any Trustee be permitted by the Board to absent himself Filling of casual vacan. from meetings of the Board for any period exceeding three months,

or if any Trustee, other than the Chairman of the Corporation dies, or resigns the office of Trustee, or ceases to hold the office of Trustee in pursuance of a notification published under section 15,

the vacancy shall be filled, within one month, by a fresh appointment or election under section 5, section 7 or section 8, as the case may be.

17. (1) The term of office of the first Trustees appointed or elected under section 5, section 7 or section 8, other than the Chairman, shall commence on such day as may be appointed by the Local Government.

(2) Subject to the provisions of section 15, the term of office of Trustees (other than the Chairman of the Corporation) shall be as follows:—

- (a) the Chairman—such period, not less than three years, as may be fixed by the Government;
- (b) a Trustee appointed or elected in pursuance of section 16 in the place of a Trustee who has been permitted

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to absent himself from meetings of the Board—the period of the absence of the latter Trustee;

- (c) other Trustees—three years.
- (3) Any Trustee shall, if not disqualified for any of the reasons mentioned in section 9, be eligible for reappointment or re-election at the end of his term of office.

Conduct of business.

- Meetings of Board.

 Meetings of Board.

 ment of their meetings, as they may think fit, subject to the following provisions, namely:—
 - (a) an ordinary meeting shall be held once at least in every month;
 - (b) the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than two other Trustees, call a special meeting;
 - (c) the Chairman shall attend every meeting of the Board unless absent on leave or prevented by sickness or other reasonable cause;
 - (d) no business shall be transacted at any meeting unless at least half of the existing number of the Trustees are present from the beginning to the end of the meeting;
 - (e) the person to preside at a meeting shall be the Chairman, or, in his absence from any meeting, the Trustees present shall choose one of their number to preside;
 - (f) all questions shall be decided by a majority of votes of the Trustees present, the person presiding having a second or casting vote in all cases of equality of votes;
 - (g) if a poll be demanded, the names of the Trustees voting, and the nature of their votes, shall be recorded by the person presiding;
 - (A) minutes of the names of the Trustees present, and of the proceedidgs, at each meeting shall be kept in a book' to be provided for the purpose, which shall be signed at the next ensuing meeting by the person presiding at such meeting and shall be open to inspection by any Trustee during office hours.
 - 19. (1) The Board may associate with themselves, in such Temporary association of members with the Board for particular purposes.

 Temporary association of manner and for such period as may be presented by rules made under sction 138, any persons whose assistance or advice they may desire in carrying out any of the provisions of this Act.

(2) A person associated with themselves by the Board under subsection (1) for any purpose shall have a right to take part in the discussions of the Board relative to that purpose, but shall not have a right to vote at a meeting of the Board, and shall not be a member of the Board for any other purpose.

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- 20. (1) The Board may from time to time appoint Committees,

 Constitution and function of Committees.

 consisting of such persons of any of the following classes as they may think fit, namely:—
 - (1) Trustees,
 - (ii) persons associated with the Board under section 19,
 - (iii) other persons whose assistance or advice the Board may desire as members of Committees:

Provided that no Committee shall consist of less than three persons.

- (2) The Board may—
 - (a) refer to such Committees, for inquiry and report, any matter relating to any of the purposes of this Act, and
 - (b) delegate to such Committees, by specific resolution, and subject to any rules made under section 138, any of the powers or duties of the Board.
- (3) The Board may at any time dissolve, or, subject to the provisions of sub-section (1), after the constitution of, any such Committee.
- (4) Every such Committee shall conform to any instructions from time to time given to them by the Board.
- (5) All proceedings of any such Committee shall be subject to confirmation by the Board.
- 21. (1) Committees appointed under section 20 may meet and adjourn as they think proper; but the Chairman may, whenever he thinks fit, call a special meeting of any Committee, and shall call a special meeting of any Committee upon the written request of not less than two members thereof.
- (2) The person to preside at a meeting of a Committee shall be the Chairman, if he is a member of the Committee, or, if he is not a member, then the members present shall choose one of their number to preside.
- (3) No business shall be transacted at any meeting of a Committee unless at least half the number of the members of the Committee are present from the beginning to the end of the meeting.
- (4) All questions at any meeting of a Committee shall be decided by a majority of votes of the members present, the person presiding having a second or casting vote in all cases of equality of votes.

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- 22. Every trustee (other than the Chairman), and every per-Fees for attendance at son associated with the Board under section meetings.

 19, shall be entitled to receive a fee of twenty rupees, and every member of a Committee shall be entitled to receive a fee of ten rupees, for each meeting of the Board or the Committee—
 - (i) at which a quorum is present and business is transacted, and
 - (ii) which he attends from the beginning to the end thereof, or for such period as the person presiding at the meeting may consider sufficient to justify the payment of the fee:

Provided that the aggregate amount of fees payable to any person in respect of meetings of any kind held during any month shall not exceed such sum as may be prescribed by any rule made under section 137 in this behalf.

23. (1) A Trustee who-

- Trustees and associated members of Board or Committee not to take part in proceedings in which they are personally interested.

 Trustees and associated members of Board or Committee not to take part in proceedings in which they are personally interested.

 employer or employé, any such share or interest as is described in sub-section (2) of section 9, in respect of any matter, or
- (b) has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesald,

shall not vote or take any other part in any proceeding of the Board or any Committee relating to such matter.

- (2) If any Trustee, or any person associated with the Board under section 19, or any other member of a Committee appointed under this Act, has, directly or indirectly, any beneficial interest in any land situated in an area comprised in any improvement scheme framed under this Act, or in an area in which it is proposed to acquire land for any of the purposes of this Act,—
 - (i) he shall, before taking part in any proceeding at a meeting of the Board or any Committee relating to such area, inform the person presiding at the meeting of the nature of such interest,
 - (ii) he shall not vote at any meeting of the Board or any Committee upon any resolution or question relating to such land, and
 - (iii) he shall not take any other part in any proceeding at a meeting of the Board or any Committee relating to such area if the person presiding at the meeting considers it inexpedient that he should do so

24. The Board may enter into and perform all such contracts

Power to make and perform contracts.

as they may consider necessary or expedient for carrying out any of the purposes of this Act.

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Execution of contracts and approval of estimates

25. (1) Every such contract shall be made on behalf of the Board by the Chairman:

Provided that-

- (a) a contract involving an expenditure exceeding one thousand rupees and not exceeding one lakh of rupees shall not be made by the Chairman without the previous sanction of the Board; and
- (b) a contract involving an expenditure exceeding one lakh of rupees shall not be made by the Chairman without the previous sanction of the Board and the Local Government.
- (2) Every estimate for the expenditure of any sum for carrying out any of the purposes of this Act shall be subject to the approval of the authority who is empowered by sub-section (1) to make or sanction the making of a contract involving the expenditure of a like sum.
- (3) Sub-sections (1) and (2) shall apply to every variation or abandonment of a contract or estimate, as well as to an original contract or estimate.
- 26. (1) Every contract made by the Chairman on behalf of the Further provisions as to execution of contracts, and provisions as to seal of Board.

 Board shall be entered into in such manner and form as would bind the Chairman if such contract were made on his own behalf, except that the common seal of the Board shall be used (where necessary); and every such contract may in the like manner and form be varied or discharged.
- (2) Every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees shall be in writing, and shall be sealed.
- (3) The Common Seel of the Board shall remain in the custody of the Secretary to the Board, and shall not be affixed to any contract or other instrument except in the presence of a Trustee (other than the Chairman), who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.
- (4) The signature of the said Trustee shall be in addition to the signature of any witness to the execution of such contract or instrument.
- -(5) A contract not executed as provided in this section shall not be binding on the Board.

27. (1) At least seven days before the Chairman enters into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, he shall give notice by advertisement in local newspapers inviting tenders for such contract.

- (2) In every such case the Chairman shall place before the Board the specifications, conditions and estimates and all the tenders received, specifying the particular tender (if any) which he proposes to accept.
- (3) In every case in which the acceptance of a tender would involve an expenditure exceeding one lakh of rupees, the Board shall submit to the Local Government the specifications, conditions and estimates, and all the tenders received, specifying the particular tender (if any) the acceptance of which they propose to sanction.
- (4) Neither the Board nor the Local Government shall be bound to sanction the acceptance of any tender which has been made; but the Board, within the pecuniary limits of their powers, as prescribed in section 25, sub-section (1), or the Local Government, may sanction the acceptance of any of such tenders which appears to them, upon a view of all the circumstances, to be the most advantageous, or may direct the rejection of all the tenders submitted to them.
- 28. The Chairman shall take sufficient security for the due
 Security for performance performance of every contract involving an expenditure exceeding one thousand rupees.
- 29. (1) The Chairman shall forward to the Local Government

 Supply of documents and a copy of the minutes of the proceedings of each meeting of the Board, within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed in section 18, clause (1).
- (2) If the Local Government so directs in any case, the Chairman shall forward to it a copy of all papers which were laid before the Board for consideration at any meeting.
- (3) The Local Government may require the Chairman to furnish it with—
 - (a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Board, or
 - (b) a report on any such matter, or
 - (c) a copy of any document in the charge of the Chairman,

Officers and Servants.

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Statement of strength and remuneration of staff.

30. The Board shall from time to time Act 5 prepare, and shall maintain, a statement showing—

- (a) the number, designations and grades of the officers and servants (other than employes who are paid by the day or whose pay is charged to temporary work) whom they consider it necessary and proper to employ for the purposes of this Act,
- (b) the amount and nature of the salary, fees and allowances to be paid to each such officer and servant and
- (c) the contributions payable under section 146 in respect of each such officer and servant.

Board to make rules.

31. The Board shall from time to time make rules—

- (a) fixing the amount and nature of the security to be furnished by any officer or servant of the Board from whom it may be deemed expedient to require security;
- (b) for regulating the grant of leave of absence, leaveallowances and acting allowances to the officers and servants of the Board; and
- (c) for establishing and maintaining a provident or annuity fund, for compelling all or any of the officers or servants of the Board (other than any servant of the Government in respect of whom a contribution is paid under section 146) to contribute to such fund, at such rates and subject to such conditions as may be prescribed by such rules, and for supplementing such contributions out of the funds of the Board:

Provided that a Government servant employed as an officer or servant of the Board shall not be entitled to leave or leave-allow-ances otherwise than as may be prescribed in any general or special orders of the Government for regulating the transfer of Government servants to foreign service.

- 32. Subject to any directions contained in any statement. Powers of appointment, prepared under section 30 and any rules etc., in whom vested made under section 31, and for the time being in force, the power of appointing, promoting and granting leave to officers and servants of the Board, and reducing, suspending or dismissing them for misconduct, and dispensing with their services for any reason other than misconduct, shall be vested—
 - (a) in the case of officers and servants whose monthly salary does not exceed three hundred rupees—in the Chairman, and
 - (b) in other cases—in the Board:

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Provided that any officer or servant in acceipt of a monthly salary exceeding one hundred rupees who is reduced, suspended or dismissed by the Chairman may appeal to the Board, whose decision shall be final.

Sanction of Local Government required to certain statements, rules and orders.

- 33. (a) All statements prepared under section 30, so far as they relate to offices carrying a salary of more than one thousand rupees per mensem,
- (b) all rules made under clause (b) or clause (c) of section 31, and
- (c) all orders passed by the Board under section 32, and relating to any officer appointed to hold an office carrying a salary of more than one thousand rupees per mensem, except orders granting leave to, or suspending, any such officer,

shall be subject to the previous sanction of the Local Government.

- 34. The Chairman shall exercise supervision and control over

 Control by Chairman. the acts and proceedings of all officers and servants of the Board; and, subject to the foregoing sections, shall dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances.
- 35. (1) The Chairman may, by general or special order in Delegation of certain of writing, delegate to any officer of the Board Chairman's functions. any of the Chairman's powers, duties or functions under this Act or any rule made hereunder, except those conferred or imposed upon or vested in him by sections 18, 21, 29, 55, 108, 112, 116, 118, 154 and 158:

Provided as follows:-

- (a) The Chairman shall not delegate his power under section
 25 to make on behalf of the Board any contract
 involving an expenditure exceeding one thousand
 rupees;
- (b) the Chairman shall not delegate his power under section 32 to make appointments to offices carrying a salary of more than one hundred rupees per mensem;
- (c) the Chairman shall not delegate to any officer his power under section 32 to grant leave to, or to reduce, suspend, dismiss, or dispense with the services of, any employé, unless such employé was appointed by such officer by virtue of a delegation of the Chairman's powers of appointment conferred by that section.
- (2) The exercise or discharge by any officer of any powers, duties or functions delegated to him under sub-section (1) shall

be subject to such conditions and limitations (if any) as may be prescribed in the said order, and also to control and revision by the Chairman.

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CHAPTER III.

IMPROVEMENT SCHEME AND REHOUSING SCHEMES. .

- 36. Whenever it appears to the Board, whether upon an When general improve. official representation made under secment scheme may be framed tion 37 or without such a representation,—
 - (a) that any buildings in any area which are used, or are intended or are likely to be used, as dwelling-places, are unfit for human habitation, or
 - (b) that danger to the health of the inhabitants of buildings in any area, or in any neighbouring buildings, is caused by—
 - (i) the narrowness, closeness and bad arrangement and condition of streets or buildings or groups of buildings in such area, or
 - (ii) the want of light, air, ventilation or proper conveniences in such area, or
 - (iii) any other sanitary defects in such area,

and that the most satisfactory method of dealing with the evils connected with such buildings and the sanitary defects in such area is a general improvement scheme for the rearrangement and reconstruction of the streets and buildings, or some of them; within such area.

the Board may pass a resolution to the effect that such area is an unhealthy area, and that a general improvement scheme ought to be framed in respect of such area,

and may then proceed to fr ame such a scheme.

Vide 24 C. L. J. 246-21 C. W. N. 8.

Authority for making an official representation reofficial representation for a ferred to in section 36 may be made by the Corporation—

- (a) of their own motion, or
- (b) on a written complaint by the Health Officer of the Corporation; or
- (c) in respect of any area comprised in a municipal ward,—
 on a written complaint signed by twenty-five or
 more residents of such ward who are liable to pay
 either the owner's share or the occupier's share of

the consolidated rate leviable under the Calcutta Municipal Act, 1899.*

- (2) If the Corporation decide not to make an official representation on any complaint made to them under clause (b) or clause (c), they shall cause a copy of such complaint to be sent to the Board, with a statement of the reasons for their decision.
- 38. (1) The Board shall consider every official representation Consideration of official made under section 37, and, if satisfied as representations. to the truth thereof and as to the sufficiency of their resources, shall decide whether a general improvement scheme to carry such representation into effect should be framed forthwith or not, and shall forthwith intimate their decision to the Corporation.
- (2) If the B oard decide that it is not necessary or expedient to frame a general improvement scheme forthwith, they shall inform the Corp oration of the reasons for their decision.
- (3) If the Board fail, for a period of twelve months after the receipt of any official representation made under section 37 to intimate their decision thereon to the Corporation,

or if the Board intimate to the Corporation their decision that it is not necessary or expedient to frame a general improvement scheme forthwith,

the Corporation may, if they think fit, refer the matter to the Local Government.

- (4) The Local Government shall consider every reference made to it under sub-section (3), and
 - (a) If it considers that the Board ought, under all the circumstances, to have passed a decision within the period mentioned in sub-section (3), shall direct the Board to pass a decision within such further period as the Local Government may think reasonable, or
 - (b) if it considers that it is, under all the circumstances, expedient that a scheme should forthwith be framed, shall direct the Board to proceed forthwith to frame a scheme.
- (5) The Board shall comply with every direction given by the Local Government under sub-section (4).

When street scheme may be framed.

39. Whenever the Board are of opinion that, for the purpose of—

- (a) providing building-sites, or
 - (b) remedying defective ventilation, or

(c) creating new, or improving existing, means of communication and facilities for traffic, or

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(d) affording better facilities for conservancy,

it is expedient to lay out new streets or to alter existing streets (including bridges, causeways and culverts), the Board may pass a resolution to that effect, and shall then proceed to frame a street scheme for such area as they may think fit.

Vide 24 C. L. J. 246-21 C. W. N. 8.

Matters to be considered when framing improvement scheme in respect of any area, regard shall be had to—

- (a) the nature and the conditions of neighbouring areas and of Calcutta as a whole;
- (b) the several directions in which the expansion of Calcutta appears likely to take place; and
- (c) the likelihood of improvement schemes being required for other parts of Calcutta.

Vide 24 C. L. J. 246-21 C. W. N. 8.

Matters which must be provided for in improvement scheme shall provide for—

- (a) the acquisition by the Board of any land, in the area comprised in the scheme, which will, in their opinion, be required for the execution of the scheme;
- (b) the laying out or relaying out of the land in the said area;
- (c) such demolition, alteration or reconstruction of buildings, situated on land which it is proposed to acquire in the said area, as the Board may think necessary;
- (d) the construction of any buildings which the Board may consider it necessary to erect for any purpose other than sale or hire;
- (e) the laying out or alteration of streets (including bridges, causeways and culverts), if required; and
- (f) the levelling, paving, metalling, flagging, channelling, sewering and draining of the said streets, and the provision therein of water, lighting and other sanitary conveniences ordinarily provided in a Municipality.

Vide 24 C. L.]. 246-21 C. W. N. 8.

Matters which may be 42. Any improvement scheme may provided for in improve provide for—
ment schemes.

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- (a) the acquisition by the Board of any land, in the area comprised in the scheme, which will, in their opinion, be affected by the execution of the scheme;
- (b) raising, lowering or levelling any land in the area comprised in the scheme;
- (c) the formation or retention of open spaces; and
- (d) any other matters, consistent with this Act, which the Board may think fit.

Vide 24 C. L. J. 246=21 C. W. N. 8.

Preparation, publication and transmission of notice as to improvement scheme, and supply of documents to applicants.

- 43. (1) When any improvement scheme has been framed, the Board shall prepare a notice, stating—
- (a) the fact that the scheme has been framed,
- (b) the boundaries of the area comprised in the scheme, and
- (c) the place at which particulars of the scheme, a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire, may be seen at reasonable hours.
- (2) The Board shall-
 - (i) cause the said notice to be published weekly for three consecutive weeks in the Calcutta Gasette and in local newspapers, with a statement of the period within which objections will be received, and
 - (ii) send a copy of the notice to the Chairman of the Corporation and to the Chairman of any Municipality constituted under the Bengal Municipal Act, 1884,* in which any portion of the area comprised in the scheme is situated.
- (3) The Chairman shall cause copies of all documents referred to in clause (c) of sub-section (1) to be delivered to any applicant on payment of such fee as may be prescribed by rule made under section 138.

Vide 24 C. L. J. 246-21 C. W. N. 8.

Transmission to Board of representation by Corporation of Municipality as to improvement scheme.

43, shall, within a period of sixty days from the receipt of the said copy, forward to the Board any representation which the Corporation or Municipality may think fit to make with regard to the scheme.

Vide 24 C. L. J. 246-21 C. W. N. 8.

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45. (1) During the thirty days next following the first day on

Service of notice as to which any notice is published under section

proposed acquisition of land. 43' in respect of any improvement scheme,
the Board shall serve a notice on—

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- (i) every person whose name appears in the municipal assessment-book as being primarily liable to pay the owner's share of the consolidated rate, or the rate on the annual value of holdings, as the case may be, in respect of any land which the Board propose to acquire in executing the scheme, and
- (ii) the occupier (who need not be named) of each premises or holding, entered in the municipal assessment-book, which the Board propose to acquire in executing the scheme.
- (2) Such notice shall-
 - (a) state that the Board propose to acquire such land for the purpose of carrying out a general improvement scheme or a street scheme, as the case may be, and
 - (b) require such person, if he dissents from such acquisition, to state his reasons in writing within a period of sixty days from the service of the notice.
- (3) Every such notice shall be signed by, or by the order of the Chairman.
- 46. The Chairman of the Corporation and the Chairman of Furnishing of copy of, or any Municipality constituted under the extracts from, the municipal Bengal Municipal Act, 1884,* in any@ part of which this section is for the time being in force, shall, respectively, furnish the Chairman, at his request, with a copy of, or extracts from, the municipal assessment-book at such charge as may be fixed by rule made under section 137.
- Abandonment of improvement scheme or application to Local Government of dissent received thereunder, and, after hearing all persons making any such objection, representation or dissent who may desire to be heard, the Board may either abandon the scheme or apply to the Local Government for sanction to the scheme, with such modifications (if any) as the Board may consider necessary.
- (2) Every application submitted under sub-section (1) shall be accompanied by—
 - (a) a description of, and full particulars relating to, the scheme, and complete plans and estimates of the cost of executing the scheme;

- (b) a statement of the reasons for any modifications made in the scheme as origin ally framed;
- (c) a statement of objections (if any) received under section 43;
- (d) any representation received under section 44;
- (e) a list of the names of all persons (if any) who have dissented, under section 45, clause (b), from the proposed acquisition of their land, and a statement of the reasons given for such dissent; and
- (f) a statement of the arrangements made or proposed by the Board for the rehousing of persons of the poorer and working classes who are likely to be displaced by the execution of the scheme.
- (3) When any application has been submitted to the Local Government under sub-section (1), the Board shall cause notice of the fact to be published for two consecutive weeks in the Calcutta Gasette and in local newspapers.

Vide 24 C. L. J. 246=21 C. W. N. 8.

48. The Local Government may sanction, either with or Power to sanction or reject improvement scheme. without modification, or may refuse to sanction, any improvement scheme submitted to it under section 47.

Vide 24 C. L. J. 246-21 C. W. N. 8.

- 49. (1) Whenever the Local Government sanctions an im-Notification of sanction provement scheme, it shall announce the to improvement scheme. fact by notification, and the Board shall forthwith proceed to execute the scheme.
- (2) The publication of a notification under sub-section (1), in respect of any scheme, shall be conclusive evidence that the scheme has been duly framed and sanctioned.

Vide 24 C. L. J. 246-21 C. W. N. 8.

50. At any time after any improvement scheme has been sanctioned by the Local Government, and before it has been carried into execution, the Board may after it:

Provided as follows:-

- (a) if any alteration is estimated to increase the estimated net cost of executing a scheme by more than five per cent of such cost, such alteration shall not be made without the previous sanction of the Local Government:
- (b) if any alteration involves the acquisition, otherwise than by agreement, of any land the acquisition of which has not been sanctioned by the Local Government, the

procedure prescribed in the foregoing sections of this Chapter shall, so far as applicable, be followed, as if the alteration were a separate scheme.

Vide 24 C. L. J. 246=21 C. W. N. 8.

- Combination of improvement schemes.
- 51 Any number of areas in respect of which improvement schemes have been, or are proposed to be, framed, may at any time be included in one combined scheme.
- 52. (1) The Board may frame schemes (herein called rehousing schemes) for the construction, Rehousing persons displaced by improvement maintenance and management of such and schemes. so many dwellings and shops as they may consider ought to be provided for persons of the poorer and working classes who—
 - (a) are displaced by the execution of any improvement scheme sanctioned under this Act, or
 - (b) are likely to be displaced by the execution of any improvement scheme which it is intended to frame, or to submit to the Local Government for sanction, under this Act.
- (2) Every rehousing scheme shall be submitted to the Local Government, who may either sanction it, with or without modification, or refuse to sanction it.
- (3) The Board shall not themselves construct dwellings or shops under a rehousing scheme unless they are satisfied, after due inquiry, that no other person is willing and able to construct them and is prepared to construct, maintain and manage them under the control of the Board.

Vide 24 C. L. J. 246-21 C. W. N. 8.

Width of streets.

53. No street laid out or altered by the Board shall be less width than—

- (a) forty feet, if the street be intended for carriage traffic or
- (b) twenty feet, if the street be intended for foot traffic only:

Provided as follows:-

- (i) the width of an existing street need not be increased to the minimum required by this section, if the Board consider it impracticable to do so;
- (ii) nothing in this section shall be deemed to prevent the Board from laying out service passages for sanitary purposes of any width less than twenty feet.

Transfer to Board, for purposes of improvement scheme, of building or land wested in Corporation or Municipality.

- 54. (1) Whenever any building, or any street, square or other land, or any part thereof, which—
- (a) is situated in the Calcutta Municipality and is vested in the Corporation, or
- (b) is situated in any part of any Municipality constituted under the Bengal Municipal Act, 1884,* in which this section is for the time being in force, and is vested in the Commissioners of that Municipality,

is required for executing any improvement scheme, the Board shall give notice accordingly to the Chairman of the Corporation or the Chairman of such Municipality, as the case may be;

and such building, street, square, land or part shall thereupon vested in the Board, subject, in the case of any building or any land (not being a street or square), to the payment to the Corporation, or to such Commissioners, as the case may be, of such sum as may be required to compensate them for actual loss resulting from the transfer therof to the Board.

- (2) If any question or dispute arises as to the sufficiency of the compensation paid or proposed to be paid under sub-section (1), the matter shall be referred to the Local Government whose decision shall be final.
- Transfer of private street or square or part thereof which is not vested in the Board or in the Corporation or in the Commissioners of any Municipality constituted under the Bengal Municipal Act, 1884,* is required for executing any improvement scheme, the Board shall cause to be affixed, in a conspicuous place in or near such street, square or part, a notice signed by the Chairman, and
 - (a) stating the purpose for which the street, square or part is required, and,
 - (b) declaring that the Board will, on or after a date to be specified in the notice, take over charge of such street, square or part from the owner thereof;

and shall simultaneously send a copy of such notice to the owner of such street, square or part.

- (2) After considering and deciding all objections (if any) received in writing before the date so specified, the Board may take over charge of such street, square or part from the owner thereof; and the same shall thereupon vest in the Board.
- (3) When the Board alter or close any street or square or part thereof which has vested in them under sub-section (2), they shall

pay reasonable compensation to the previous owner for the loss of his rights therein.

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- (4) If the alteration or closing of any such street, square or part causes damage or substantial inconvenience to owners of property adjacent thereto, or to residents in the neighbourhood, the Board—
 - (i) shall forthwith provide some other reasonable means of access for the use of persons who were entitled to use such street, square or part as a means of access to any property or place, and,
 - (ii) if the provision of such means of access does not sufficiently compensate any such owner or resident for such damage or inconvenience, shall also pay him reasonable compensation in money.
- Provision of drain or land, or any part thereof, has vested in the mater-work to replace another situated on land vested in the Board under section 54 or section 55, no municipal drain or water-work therein shall vest in the Board until another drain or water-work (as the case may be), if required, the Board, to the satisfaction of the General Committee or of the Committee are of the

has been provided by the Board, to the satisfaction of the General Committee or of the Commissioners of the Municipality constituted under the Bengal Municipal Act, 1884,* as the case may be, in place of the former drain or work.

(a) If any question or dispute arises as to whether another drain or water-work is required, or as to the sufficiency of any drain or water-work provided by the Board, under sub-section (1), the matter shall be referred to the Local Government, whose decision shall be final.

Bar to application of certain sections of the Calcutta Municipal Act, 1899, to streets vested in the Board.

- 57. (1) Sections 337, 338 and 355, and clause (c) of section 354, of the Calcutta Municipal Act, 1899,† shall not apply to any street which is vested in the Board.
- (2) Sections 345 and 346 of the said Act shall not apply when any drain, pavement or surface referred to in the said section 345 is open or broken up by the Board, or when any public street is under construction by the Board.

Repair and watering of street vested in the Board.

58. Whenever the Board allow any street vested in them to be used for public traffic,—

- (a) they shall, as far as practicable, keep the street in good repair and do all things necessary for the safety and convenience of person using it, and
- (b) they shall cause the street to be watered, if they consider it necessary to do so for the public convenience.

^{*} Ben. Act III. of 1884.

Guarding and lighting when street vested in the Board is opened or broken up, or when street is under construction and speedy completion of work.

59. Whenever any drain in, or the pavement or surface of, any street vested in the Board is open or broken up by the Board for the purpose of carrying on any work.

or whenever the Board allow any street which they have under construction to be used for public traffic,

the Board shall cause the place to be fenced and guarded and to be sufficiently lighted during the night, and shall take proper precautions for guarding against accident by shoring up and protecting adjoining buildings,

and shall, with all convenient speed, complete the said work, fill in the ground, and repair the said drain, pavement or surface, and carry away the rubbish occasioned thereby or complete the construction of the said street, as the case may be.

Prevention or restriction of traffic in street vested in the Board, during progress of work.

Prevention or restriction executed by the Board in any public street vested in them, or when in any other work which may lawfully be done is being executed by the Board in any street vested in them, the

Board may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.

(2) When any such direction has been given, the Board shall set up in a conspicuous position in or near the street an order prohibiting traffic to the extent so directed, and shall fix such bars, chains or posts across or in the street as they may think proper for preventing or restricting traffic therein, after notifying in local newspapers their intention to do so.

Provision of facilities, and payment of compensation, when work is executed by Board in public street vested in them.

- 61. (1) When any work is being executed by the Board in any public street vested in them, the Board shall, so far as may reasonably be practicable, make adequate provision for—
- (a) the passage or diversion of traffic;
- (b) securing access to all premises approached from such street; and
- (c) any drainage, water supply or means of lighting which is interrupted by reason of the execution of the work.
- (2) The Board shall pay reasonable compensation to any person who sustains special damage by reason of the execution of any such work.

Power of Board to turn or close public street or square vested in them.

62. (1) The Board may-

(a) turn, divert, discontinue the public use of, or permanently close, any public street vested in them, or any part thereof, or

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- (b) discontinue the public use of, or permanently close, any public squares vested in them, or any part thereof.
- (2) Whenever the Board discontinue the public use of, or permanently close, any public street vested in them, or any part thereof, they shall pay reasonable compensation to every person who was entitled, otherwise than as a mere licensee, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.
- (3) Whenever the Board discontinue the public use of, or permanently close, any public square vested in them, or any part thereof, they shall pay reasonable compensation to every person—
 - (a) who was entitled, otherwise than as a mere licensee, to use such square or part as a means of access, or
 - (b) whose immoveable property was ventilated by such square or part,

and who has suffered damage,-

- (i) in case (a), from such discontinuance or closing, or
- (ii) in case (b), from the use to which the Board have put such square or part.
- (4) In determining the compensation payable to any person under sub-section (2) or sub-section (3), the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street or square at or about the same time that the public street or square or part thereof, on account of which the compensation is paid, is discontinued or closed.
- (5) When any public street or square vested in the Board, or any part thereof, is permanently closed under sub-section (1), the Board may sell or lease so much of the same as is no longer required.
- Projected public streets. Calcutta Municipality, the Board may, from time to time, prepare schemes and plans of proposed public streets, showing the direction of such streets, the street alignment and building line on each side of them, their intended width and such other details as may appear desirable.
- (2) Before finally adopting any scheme or plan prepared under sub-section (1), the Board shall give public notice of their intention so to do, and shall send the scheme or plan to the local authority by which the said area is administered, and shall consider all objections received from any person affected by the scheme or plan, and any representation made to them by the said local authority, before a date to be appointed by the Board in this behalf.

- (3) When any plan prepared under sub-section (1) has been finally adopted by the Board, the street to which it refers shall be deemed to be a projected public street.
- (4) If any person desires to erect, re-erect, add to or alter any building or wall so as to make the same fall within the street alignment or building line shown in any plan so adopted, he shall apply to the Board for permission to do so.
- (5) If the Board refuse to grant permission to any person to erect on his land any building or wall to project as aforesaid, and if they do not proceed to acquire such land within one year from the date of such refusal, they shall pay reasonable compensation to such person for any damage sustained by him in consequence of such refusal.
- (6) When any building, wall or part thereof projecting across the street alignment or building line shown in any plan adopted as aforesaid has fallen down or been burnt down or taken down, the Chairman may, by written notice, require the same to be set back to or towards such street alignment or building line.
- (7) When any building or wall is set back in pursuance of a requisition made under sub-section (6), the Board shall forthwith make full compensation to the owner of the building or wall for any damage that he may sustain thereby.

Reference of disputes to 64. (1) If any question or dispute Tribunal.

- (a) between the Board and the previous owner of any street or square or part thereof which has vested in the Board under section 55 and has been altered or closed by them, as to the sufficiency of the compensation paid or proposed to be paid under sub-section (3) of that section, or
- (b) between the Board and any person who was entitled, otherwise than as a mere licensee, to use as a means of access any street or square or part thereof which has vested in the Board under section 55,
 - (i) as to whether the-alteration or closing of such street, square or part causes damage or substantial inconvenience to owners of property adjacent thereto or to residents in the neighbourhood, or
 - (ii) as to whether the other means of access provided or proposed to be provided under sub-section (4) of the said section 55 are reasonably sufficient, or
 - (iii) as to the sufficiency of any compensation paid or proposed to be paid under the said sub-section (4), or
- (c) between the Board and any person, as to the sufficiency of any compensation paid or proposed to be paid to him under section 61, section 62 or section 63,

the matter shall be determined by the Tribunal, if referred to it, either by the Board or by the claimant, within a period of three months from—

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- in case (a) or case (b)—the date on which the street or square or part thereof was altered or closed by the Board, or
- in case (c)—the date on which the said person was informed of the decision of the Board fixing the amount of compensation to be paid to him;

and the determination of the Tribunal shall be final.

- (2) If a reference to the Tribunal be not made within the period prescribed by sub-section (1), the decision of the Board shall be final.
- (3) For the purpose of determining any matter referred to it under sub-section (1), the Tribunal shall have all the powers with regard to witnesses, documents, and costs which it would have if the Land Acquisition Act, 1894,* as modified by section 71 of this Act, were applicable to the case.

Vesting in Corporation of streets laid out or altered, and open spaces provided, by the Board under an improvement scheme.

65. (1) Whenever the General Committee are satisfied—

- (a) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained in the nanner provided in the plans sanctioned by the Local Government under section 48, and
- (b) that such lamps, lamp-posts and other apparatus as the General Committee consider necessary for the lighting of such street and as ought to be provided by the Board have been so provided, and
- (c) that water and other sanitary conveniences ordinarily provided in a Municipality have been duly provided in such street,

the General Committee shall make a report to the Corporation, and the Corporation shall thereupon, after informing the Board of their intention to do so, by written notice affixed in some conspicuous position in such street, declare the street to be a public street; and the street shall thereupon vest in the Corporation, and shall thenceforth be maintained, kept in repair, lighted and cleansed by the Corporation.

(2) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any improvement scheme, it shall, on completion, be transferred to the Corpo-

ration by resolution of the Board, and shall thereupon vest in, and be maintained at the expense of, the Corporation:

Provided that the General Committee may require the Board, before any such open space is so transferred, to enclose, level, turf, drain and lay out such space and provide footpaths therein, and, if necessary, to provide lamps and other apparatus for lighting it.

- (3) If any difference of opinion arises between the Board and the General Committee in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the Local Government, whose decision shall be final.
- 66. If section 65 be extended, by notification under section 1,

 Application of section 65 sub-section (3), to any Municipality in the neighbourhood of the Calcutta Municipality, it shall be construed as if the references therein to the General Committee and the Corporation were references to the Commissioners of the former Municipality.
- 67. Notwithstanding anything contained in section 65 or sec-Power of Board to retain tion 66, the Board may retain any service service passages. passage which they have laid out for sanitary purposes, and may enter into an agreement with the Corporation or any other person for the supervision, repair, lighting and general management of any passage so retained.

CHAPTER IV.

ACQUISITION AND DISPOSAL OF LAND. Acquisition by Agreement.

68. The Board may enter into an agreement with any person Power to purchase or for the purchase or leasing by the Board lease by agreement. from such person of any land which the Board are authorized to acquire, or any interest in such land.

Vide 24 C. L. J. 246-21 C. W. N. 8.

Compulsory Acquisition.

69. The Board may, with the previous sanction of the Local Power to acquire land under the provider the Land Acquisition sions of the Land Acquisition Act, 1894.

Act, 1894.

69. The Board may, with the previous sanction of the Local Government, acquire land under the provisions of the Land Acquisition Act, 1894,*

for carrying out any of the purposes of this Act.

NOTE.

The Calcutta Improvement Act does not authorize the trustees to acquire land compulsorily for the purposes of recoupment. S. 69 is the only provision in the Act for compulsory acquisition and under that section land can be compulsorily acquired only for carrying out any of the purposes of the Act. Recoupment is not one of the purposes of the Act which are enumerated in the preamble and are formulated in detail in ss. 36, 39 and 52 -29 C. L. J. 246=21 C. W. N. 6.

70. A Tribunal shall be constituted, as provided in section 72, for the purpose of performing the functions of the Court in reference to the acquisition Act 5. Tribunal to be constituted. of land for the Board under Land Acquisition Act, 1894.*

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71. For the purpose of acquiring land Modification of the Land under the said Act for the Board,— Acquisition Act, 1894.

- (a) the Tribunal shall (except for the purposes of section 54 of that Act) be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge, under the said Act;
- (b) the said Act shall be subject to the further modifications indicated in the Schedule;
- (c) the President of the Tribunal shall have power to summon and enforce the attendance of witnesses, and to compel the production of documents, by the same means, and (so far as may be)in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908;† and
- (d) the award of the Tribunal shall be deemed to be the award of the Court under the said Land Acquisition Act 1894,* and shall be final.

72. (1) The said Tribunal shall consist Constitution of Tribunal. of a President and two assessors.

- (2) The President of the Tribunal shall be either—
 - (a) a member of the Judicial Branch of the Imperial or Provincial Civil Service, of not less than ten years' standing in such Service, who has for at least three years, served as District Judge or held judicial office not inferior to that of a Subordinate Judge; or
 - (b) a barrister, advocate or pleader of not less than ten years' standing who has practised as an advocate or pleader in the Calcutta High Court.
- (3) The President of the Tribunal and one of the assessors shall be appointed by the Local Government, and the other assessor shall be appointed by the Corporation, or, in default of the Corporation, by the Local Government:

Provided that no person shall be eligible for appointment as a member of the Tribunal if he is a Trustee or is, for any of the reasons mentioned in section q, disqualified for appointment as a Trustee.

(4) The term of office of each member of the Tribunal shall be two years; but any member shall, subject to the proviso to subsection (3), be eligible for reappointment at the end of that term.

^{*} Act I. 1894.

- 1911. (5) The Local Government may, on the ground of incapacity or misbehaviour, or for any other good and sufficient reason, cancel the appointment of any person as a member of the Tribunal.
 - (6) When any person ceases for any reason to be a member of the Tribunal, or when any member is temporarily absent in consequence of illness or any other unavoidable cause, the Local Government or (if the person whose place is to be filled was appointed by the Corporation) the Corporation, or, in default of the Corporation, the Local Government, shall forthwith appoint a fit person to be a member in his place.
 - (7) All appointments made under this section shall be published by notification.
 - 73. Each member of the Tribunal shall be entitled to receive

 Remuneration of memsuch remuneration, either by way of monthly
 salary or by way of fees, or partly in one of
 those ways and partly in the other, as the Local Government may
 prescribe.

Officers and servants of Tribunal.

74. (1) The President of the Tribunal, shall, from time to time, prepare a statement showing—

- (a) the number and grades of the clerks and other officers and servants whom he considers should be maintained for carrying on the business of the Tribunal.
- (b) the amount of the salary to be paid to each such officer and servant, and
- (c) the contributions payable under section 146 in respect of each such officer and servant,
- (2) The President of the Tribunal shall, from time to time, make rules—
 - (1) for regulating the grant of leave of absence, leave-allowances and acting-allowances to the officers and servants of the Tribunal; and
 - (ii) for establishing, and maintaining a provident or annuity fund, for compelling all or any of the officers or servants of the Tribunal (other than any servant of the Government in respect of whom a contribution is paid under section 146) to contribute to such fund, at such rates and subject to such conditions as may be prescribed by such rules, and, with the sanction of the Board, for supplementing such contributions out of the funds of the Board:

Provided that a Government servant employed as an officer or servant of the Tribunal shall not be entitled to leave or leave-allowances otherwise than as may be prescribed in any general or special orders of the Government for regulating the transfer of Government servants to foreign service.

(3) All statements prepared under sub-section (1), and all rules made under sub-section (2), shall be subject to the previous sanction of the Local Government.

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- (4) Subject to any directions contained in any statement prepared under sub-section (1) and any rules made under sub-section (2), and for the time being in force, the power of appointing, promoting and granting leave to officers and servants of the Tribunal, and the power of reducing, suspending or dismissing them, shall vest in the President of the Tribunal.
- 75. (1) The remuneration prescribed under section 73 for mem-Payments by Board on bers of the Tribunal, and the salaries, leaveaccount of Tribunal allowances and acting-allowances prescribed under section 74 for officers and servants of the Tribunal, shall be paid by the Board to the President of the Tribunal for distribution.
- 76 (1) The President of the Tribunal may, from time to time,
 Power to make rules for with the previous sanction of the Local GoTribunal. wernment, make rules, not repugnant to the
 Code of Civil Procedure, 1908,* for the conduct of business by the
 Tribunal.
 - (2) All such rules shall be published by notification.

Award of Tribunal how to the award to be made by the Tribunal under the Land Acquisition Act, 1894,†—

- (a) if there is any disagreement as to the measurement of land, or the amount of compensation or costs to be allowed, the opinion of the majority of the members of the Tribunal shall prevail;
- (b) questions relating to the determination of the persons to whom compensation is payable, or the apportionment of compensation, may be tried and decided in the absence of the assessors if the President of the Tribunal considers their presence unnecessary: and when so tried and decided, the decision of the President shall be deemed to be the decision of the Tribunal; and
- (c) notwithstanding anything contained in the foregoing clauses, the decision on all questions of law and procedure shall rest solely with the President of the Tribunal.
- (2) Every award of the Tribunal, and every order made by the Tribunal for the payment of money, shall be enforced by the Court of Small Causes of Calcutta as if it were a decree of that Court.

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Abandonment of Acquisition.

Act 5.

- 78. (1) In any case in which the Local Government has sancAbandonment of acquisitioned the acquisition of land, in any area
 tion in consideration of specomprised in an improvement scheme, which
 is not required for the execution of the
 scheme, the owner of the land, or any person having an interest
 therein, may make an application to the Board, requesting that the
 acquisition of the land should be abandoned in consideration of the
 payment by him of a sum to be fixed by the Board in that behalf.
 - (2) The Board shall admit every such application if it-
 - (a) reaches them before the time fixed by the Collector under section 9 of the Land Acquisition Act, 1894,* for making claims in reference to the land, and
 - (b) is made by all persons who have interests in the landgreater than a lease for years having seven years to run.
- (3) If the Board decide to admit any such application, they shall forthwith imform the Collector; and the Collector shall thereupon stay for a period of three months all further proceedings for the acquisition of the land, and the Board shall proceed to fix the sum in consideration of which the acquisition of the land may be abandoned.
- (4) Within the said period of three months, or, with the permission of the Board, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894,* the person from whom the Board have arranged to accept the sum so fixed may, if the Board are satisfied that the security offered by him is sufficient, execute an agreement with the Board, either—
 - (i) to pay the said sum three years after the date of the agreement, or
 - (ii) to leave the said sum outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of four per cent. per annum, and to make the first annual payment of such interest four years after the date of the agreement:

Provided that the Board may, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894,* accept immediate payment of the said sum instead of an agreement as aforesaid.

(5) When any agreement has been executed in pursuance of sub-section (4), or when any payment has been accepted in pursuance of the proviso to that sub-section, in respect of any land, the proceedings for the acquisition of the land shall be deemed to be abandoned.

(6) Every payment due from any person under any agreement executed under sub-section (4) shall be a charge on the interest of of that person.

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- (7) If any instalment of interest payable under an agreement executed in pursuance of clause (11) of sub-section (4) be not paid on the date on which it is due, the sum fixed by the Board under sub-section (3) shall be payable on that date in addition to the said instalment.
- (8) At any time after an agreement has been executed in pursuance of clause (12) of sub-section (4), any person may pay off the charge created thereby, with interest, at the rate of four percent, per annum, up to the date of such payment.
- (9) When an agreement in respect of any land has been executed by any person in pursuance of sub-section (4), no suit with respect to such agreement shall be brought against the Board by any other person (except an heir, executor or administrator of the person first aforesaid) claiming to have an interest in the land.

Vide 24 C. L. J 246- C. W. N. 8

79. When an agreement has been executed by any person in Recovery of money pay. pursuance of section 78, sub-section (4), in able in pursuance of section 78. respect of any land, and any money payable in pursuance of that section is not duly paid the same shall be recoverable by the Board (together with interest, up to the date of realization, at the rate of four per ceni. per annum), from the said person or his successor in interest in such land in the manner provided by the Calcutta Municipal Act, 1899,* for the recovery of the consolidated rate;

and, if not so recovered, the Chairman may, after giving public notice of his intention to do so, and not less than one month after the publication of such notice, sell the interest of the said person or successor in such land by public auction, and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance it any) to the defaulter.

Agreement or payment under section 78 not to bar acquisition under a fresh declaration.

Agreement or payment under section 78 not to bar acquisition under a fresh declaration.

Executed, or a payment has been accepted, in pursuance of section 78, sub-section (4), be subsequently required for any of the purposes of this Act, the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894.†

Disposal of Land.

81. (1) The Board may retain, or may let on hire, lease, sell, exchange or otherwise dispose of, any land vested in or acquired by them under this Act.

- 1911. (2) Whenever the Board decide to lease or sell any land acquired by them under this Act from any person, they—
 - (a) shall give notice by advertisement in local newspapers, and
 - (b) shall offer to the said person, or his heirs, executors or administrators, a prior right to take on lease or to purchase such land, at a rate to be fixed by the Board, if the Board consider that such a right can be given without detriment to the carrying out of the purposes of this Act.
 - (3) If in any case two or more persons claim to exercise a right offered under clause (b) to take on lease or to purchase any land, the right shall be exercisible by the person who agrees to pay the highest sum for the land, not being less than the rate fixed by the Board under that clause, to the exclusion of the others.

Vide 24 C. L. J. 246-21 C. W. N. 8.

CHAPTER V.

TAXATION.

Duty on Transfers of Property.

- 82. (1) The duty imposed by the Indian Stamp Act, 1899,* on Duty on certain transfers instrument of sale, gift and usufructuary of immoveable property. mortgage, respectively, of immoveable property shall, in the case of instruments affecting immoveable property situated in the Calcutta Municipality and executed on or after the commencement of this Act, be increased by two per centum on the value of the property so situated, or (in the case of an usufructuary mortgage) on the amount secured, by the instrument, as set forth in the instrument.
- (2) For the purposes of this section, section 27 of the said Indian Stamp Act, 1899,* shall be read as if it specifically required the particulars referred to therein to be set forth separately in respect of—
 - (a) property situated in the Calcutta Municipality, and
- (b) property situated outside the Calcutta Municipality, respectively.
- (3) For the purposes of this section, section 64 of the said Indian Stamp Act, 1899,* shall be read as if it referred to the Board as well as the Government.
- (4) All collections resulting from the said increase shall, after deducting incidental expenses (it any), be paid to the Board at such time as may be prescribed by rule made under section 86.

Vide 24 C. L. J. 246-21 C. W. N. 8

Terminal lax on Passengers.

1911.

Terminal tax on passengers by railway or inland steam-vessel.

83: (1) Every passenger brought to or Act 5. taken from any station in the Calcutta Municipality or the Howrah Municipality by railway, and

every passenger brought to or taken from any landing-place in the Port of Calcutta, within five miles from Government House, by inland steam-vessel,

shall pay a tax of half-an-anna in respect of each journey so made by him:

Provided as follows:-

- (a) the said tax shall not be payable by any passenger brought from, or taken to, any place situated within a radius of thirty miles from Government House;
- (b) the Local Government may, by notification, either—
 - (1) with the previous sanction of the Government of Ingia, reduce the said radius to any distance less than thirty miles, in its application either to passengers generally or to passengers of any specified class, or
 - (ii) with the previous sanction of the Government of India, cancel proviso (a), or
 - (iii) reduce the said tax to any lower rate, either in respect of passengers generally or in respect of passengers making frequent journeys;
- (c) the said tax may, in the case of passengers taking suburban season tickets, be calculated at the rate six annas per mensem for each such ticket, or at such lower rate as the Local Government may prescribe by notification.
- (2) The said tax shall be collected by means of a surcharge on fares, by the administration of the railway, or the owner of the vessel, by which the passengers are carried, and shall be paid to the Board at such time as may be prescribed by rule made under section 86, after making such deduction as the Local Government may approve to meet any expenses incurred in connection with the collection of the tax.
- (3) The owner of every inland steam-vessel referred to in sub-section (1) shall prepare and deliver, or cause to be prepared and delivered, to the Chairman, each quarter, a return, in the form prescribed by rule made under section 85, of all passengers, carried by such vessel, by whom the tax imposed by that sub-section is payable; and shall subscribe, at the foot of such return, a declaration of the truth thereof.

(4) Every such return shall be delivered to the Chairman or posted to his address within fitteen working days, or at most within thirty days, after the end of the quarter to which it relates.

Explanation.—The expression "working day," as used in this sub-section, means every day except a public holiday as defined in section 25 of the Negotiable Instruments Act, 1881.*

- (5) If this Act is directed to come into force during a quarter, the first of the said returns shall be made for the unexpired portion of that quarter.
- (6) The expression "administration" and the expressions "owner" and "inland steam-vessel," as used in this section, have the same meanings as in the Indian Railways Act, 1890,† and the Indian Steam-vessels Act, 1884,‡ respectively.

Vide 24 C. L. J. 246=21 C. W. N 8.

Customs Duty on Jute.

- 84. (1) A customs duty shall be levied and collected on all Customs duty on exports jute exported by sea from the Port of Calof jute from Calcutta by cutta to any other port, whether beyond or within India, at such rate, not exceeding,—
 - (a) in the case of raw jute (including jute cuttings and rejections), two annas per bale of four hundred pounds, and
 - (b) in the case of manufactured jute twelve annas per ton of two thousand two hundred and forty pounds, •

as the Local Government may prescribe by notification:

Provided that the said duty shall not be levied or collected in respect of jute, whether raw or manufactured, exported under any contract which was made before the fifteenth day of August, 1911, and the existence of which was established to the satisfaction of the Customs Collector before the fifteent; day of September, 1911.

(2) At the close of each quarter, or as soon thereafter as may be convenient, the duty collected under sub-section (1) shall, after deducting the expenses of collection (if any), be paid by the Customs Collector to the Board.

Vide 24 C. L. J. 246=21 C. W N. 8.

Section 5 of the Indian Tariff Act, 1894, not to apply to jute.

85. Section 5 of the Indian Tariff Act, 1894, \$\\$ shall not apply to jute (whether raw or manufactured) passing by land out of Calcutta.

^{*} Act XXV. of 1881. † Act IX. of 1890.

^{\$\}frac{1}{4} \text{Act VI. of 1884.} \\ \frac{1}{4} \text{Act VIII. of 1894.}

Supplemental Provisions.

1911.

Power to Local Government to make rules. 86. (1) The Local Government may Act 5 make rules for carrying out the purposes of this chapter.

- (2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules—
 - (a) for regulating the collection of taxes imposed by this Chapter, and the payment thereof to the Board;
 - (b) for prescribing the form of the return required by section 83, sub-section (3), and the particulars to be contained therein, and the manner in which the same is to be verified.
 - 87. The offences mentioned in column 1 of the following table shall be punishable to the extent mentioned in column 2 thereof with reference to such offences, respectively:—
- (1) Omitting to make any return required by section 83 sub-section (3) or refusing to sign or complete the same.

Fine not exceeding one thousand rupees.

(a) Making and delivering any such return containing any statement not true to the best of the information and belief of the person making the same.

The penalty provided in the Indian Penal Code.* section 199, for making a false statement in a declaration.

(3) Otherwise contravening any rule made under section 86.

Fine not exceeding five hundred rupees.

CHAPTER VI.

FINANCE.

Municipal Contributions.

88. (1) The Chairman of the Corporation shall pay from the Contributions from Mu. Municipal Funds to the Board on the first nicipal Funds.

day of each quarter, so long as the Board continue to exist, a sum equivalent to one-half per cent. per quarter on the annual rateable valuation determined under Chapter XII. of the Calcutta Municipal Act, 1899,† as it stood on the first day of the last preceding quarter:—

Provided as follows:-

(a) in the case of property vested in the Commissioners for the Port of Calcutta, the said percentage shall be

^{*} Act XLV. of 1860.

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- calculated upon the nine, tenths of the annual rateable valuation of such property, and
- (b) if this Act is directed to come into force during a quater, the amount of the first of such payments shall bear such proportion to the sum payable hereunder as the unexpired portion of that quarter bears to the whole quarter.
- (2) If in any financial year the sums due to the Board under section 82 and sub section (1) of this section aggregate less than seven and-a-half lakhs of rupees, the Chairman of the Corporation shall pay to the Board, from the Municipal Funds, such further sum as may be required to make up the said sum of seven and-a-half lakhs of rupees.
- (3) The payments prescribed by sub-sections (1) and (2) shall be made in priority to all other payments due from the Corporation, except those referred to in section 140 of the said Calcutta Municipal Act, 1899.*
- (4) If any payment prescribed by sub-section (1) or subsection (2) cannot be made without increasing the maximum authorised by clause (a) of section 147 of the said Calcutta Municipal Act, 1899,* then that maximum may be increased to such extent as may be necessary to secure the due making of such payment.

loans.

- 89. The Board may from time to time borrow, at such rate of Power of Board to borrow interest, and for such period, and upon such money.

 terms, as to the time and method of repayment and otherwise, as the Government of India may approve, any sum necessary for the purpose of—
 - (a) meeting expenditure debitable to the capital account under section 123, or
 - (b) repaying any loan previously taken under this Act.
- 90. Whenever the borrowing of any sum has been approved

 Manner and time of borunder section 89, the Local Government shall,
 rowing money.

 with the previous sanction of the Government of India, direct and appoint the manner in which and the time
 at which such sum shall be borrowed.
- 91. Whenever the borrowing of any sum has been approved under section 89, the Board may, instead of borrowing such sum or any part thereof from the public, but subject to any direction given by the Local Government under section 90, take credit from any Bank, on a cash account to be kept in the name of the Board, to the extent of such sum or part;

and, with the previous sanction of the Local Government may grant mortgages of all or any property vested in the Board by way of securing the payment of the amount of such credit or of the sums Aot 5. from time to time advanced on such cash account with interest.

- 92. When any sum of money has been borrowed under section 89 or section of for the purpose of meeting Diversion of borrowed particular expenditure or repaying a partimoney to purposes other than those first approved. cular loan, no portion thereof shall be applied to any other purpose without the previous sanction of the Local Government.
- 93. (1) Whenever money is borrowed by the Board on debentures, the debentures shall be in such form Form, signature, exchange, as the Board, with the previous sanction of transfer and effect of debentures. the Government of India, may from time to time determine.
- (2) All debentures shall be signed by the Chairman and one other Trustee.
- (3) The holder of any debenture in any form prescribed under sub-section (1) may obtain in exchange therefor, upon such terms as the Board may from time to time determine, a debenture in any other form so prescribed.
- (4) Every debenture issued by the Board shall be transferable by endorsement, unless some other mode of transfer be prescribed therein.
- (5) The right to sue in respect of moneys secured by debentures issued by the Board shall vest in the respective holders of the debenfures for the time being, without any preference by reason of some of such debentures being prior in date to others.
- 94. All coupons attached to debentures issued under this Act shall bear the signature of the Chairman: Signature of coupons attached to debentures. and such signature may be engraved, lithographed or impressed by any mechanical process.
- 95. When any debenture or security issued under this Act is Payment to survivors of payable to two or more persons jointly, and 'joint payees. either or any of them dies, then, notwithstanding anything in section 45 of the Indian Contract Act, 1872,* the debenture or security shall be payable to the survivor or survivors of such persons:

Provided that nothing in this section shall affect any claim by the representative of a deceased person against such survivor or survivors.

96. Where two or more persons are joint holders of any deben-Receipt by joint holder for interest or dividend. ture or security issued under this Act, any one of such persons may give an effectual

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- receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Board by any other of such persons.
 - 97. All payments due from the Board for interest on, or
 Priority of payments for interest and repayment of loans. the repayment of, loans, shall be made in priority to all other payments due from the Board.
 - Repayment of loans taken by the Board under section 89 shall be repaid within the period approved by the Government of India under that section, and, subject to the provisions of section 125, sub-section (2), by such of the following methods as may be so approved, namely:—
 - (a) from a sinking fund established under section 99 in respect of the loan, or
 - (b) by paying equal yearly or half-yearly instalments of principal, or of principal and interest, throughout the said period, or
 - (c) if the Board have, before borrowing money on debentures, reserved, by public notice, a power to pay off the loan by periodical instalments and to select by lot the particular debentures to be discharged at particular periods—than by paying such instalments at such periods, or
 - (a) from money borrowed for the purpose under section 89, clause (b), or
 - (e) partly from the sinking fund established under section 99 in respect of the loan and partly from money borrowed for the purpose under section 89, clause (b).
 - 99. (1) Whenever the Government of India have approved the Establishment and main-repayment of a loan from a sinking fund, tenance of sinking funds the Board shall establish such a fund and shall pay into it in every year, until the loan is repaid, a sum so calculated that, if regularly paid throughout the period approved by the Government of India under section 89, it would, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the loan at the end of that period.
 - (2) The rate of interest on the basis of which the sum referred to in sub-section (1) shall be calculated shall be such as may be prescribed by the Government of India.
 - 100. Notwithstanding anything contained in section 99, if at Power to discontinue pay. any time the sum standing at credit of the ments into sinking fund. sinking fund established for the repayment of any loan, is of such amount that, if allowed to accumulate at the rate of interest prescribed under sub-section (2) of that section, it will be sufficient to repay the loan at the end of the period approved by the Government of India under section 89, then, with

the permission of the Local Government, further annual payments into such fund may be discontinued.

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- 101. (1) All money paid into any sinking fund shall as soon Investment of sinking as possible be invested, under the orders of the Board, in—
 - (a) Government securities, or
 - (b) securities guaranteed by the Government, or
 - (c) Calcutta Municipal debentures, or
 - (a) debentures issued by the Commissioners for the Port of Calcutta, or
 - (e) debentures issued by the Board,

in the joint names of the Secretary to the Government of Bengal in the Financial Department and the Accountant-General of Bengal, to be held by them as trustees for the purpose of repaying from time to time the debentures issued by the Board.

- (2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt be paid into the appropriate sinking fund and invested in the manner prescribed by sub-section (1).
- (3) Any investment made under this section may from time to time, subject to the provisions of sub-section (1), be varied or transposed.
- 102. The aforesaid trustees may from time to time apply any Application of sinking sinking fund, or any part thereof, in or tofunds. wards the discharge of the loan or any part
 of the loan for which such fund was established; and until such
 loan is wholly discharged shall not apply the same for any other
 purpose.
- Annual statements by financial year, transmit to the Chairman a trustees.
 - (a) the amount which has been invested during the year under section 101,
 - (b) the date of the last investment made previous to the transmission of the statement,
 - (c) the aggregate amount of the securities held by them,
 - (d) the aggregate amount which has, up to the date of the statement, been applied under section 102 in or towards repaying loans, and
 - (e) the aggregate amount already paid into each sinking fund.
- (2) Every such statement shall be laid before the Board and published by notification.

- 104. (1) The said sinking funds shall be subject to annual Annual examination of examination by the Accountant-General. Bengal, who shall ascertain whether the cash and the current value of the securities at credit of such funds are actually equal to the amount which would have accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.
- (2) The Board shall forthwith pay into any sinking fund any amount which the Accountant-General may certify to be deficient, unless the Government of India specially sanction a gradual readjustment.

Enforcement of Liabilities.

Procedure if Board fail to make any payment or investment in respect of loans.

105. (1) If the Board fail-

- (a) to pay any interest due in respect of any loan taken in pursuance of section 89, or
- (b) to make any payment prescribed by section 98, section 99 or sub-section (2) of section 104, or
- (c) to make any investment prescribed by section 101,

the Accountant-General of Bengal shall make such payment, or set aside and invest such sum as ought to have been invested under the said section 101, as the case may be;

and the Chairman of the Corporation shall forthwith pay from the Municipal Funds to the said Accountant-General a sum equivalent to the sum so paid or invested by him;

and the Local Government may attach the rents and other income of the Board; and thereupon the provisions of sub-section (2) of section 141 of the Calcutta Municipal Act, 1899,* shall, with all necessary modifications, be deemed to apply.

(2) Whenever the Chairman of the Corporation has made any payment to the Accountant-General under sub-section (1), the Local Government shall reimburse the Corporation out of the rents and income attached under that sub-section, and if such rents and income prove insufficient for that purpose the Corporation may, with the previous sanction of the Local Government, increase the maximum authorized by clause (2) of section 147 of the Calcutta-Municipal Act, 1899,* to such extent as may be necessary for the purpose of making up the deficiency:

Provided that no such increase shall be made, unless the taxes imposed by sections 83 and 84 are levied at the maximum rates respectively prescribed by those sections.

Procedure if Chairman of Corporation fails to make any payment due to Board or Accountant-General.

106. If the Chairman of the Corporation fails to make any payment as required by section 88 or section 105, the Local Government may attach the Municipal Funds or any of them;

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and thereupon the provisions of sub-section (2) of section 141 of the Calcutta Municipal Act, 1899,* shall, with all necessary modifications, be deemed to apply, and the Local Government may further require the Corporation to increase the maximum authorized by clause (a) of section 147 of that Act, to such extent as may be necessary for the purpose of making such payment:

Provided that no such increase shall be made, in consequence of any failure of the Chairman of the Corporation to make any payment as required by section 105, unless the taxes imposed by sections 83 and 84 are levied at the maximum rates respectively prescribed by those sections.

107. All moneys paid by the Chairman of the Corporation

Payments under section under sub-section (1) of section 105 and not
reimbursed by the Local Government under
sub-section (2) of that section, and all
moneys payable under sub-section (1) of section 105 and levied
under section 106, shall constitute a charge upon the property of
the Board.

Budget Estimates.

- 108. (1) The Chairman shall, at a special meeting to be held

 Estimates of income and expenditure to be laid annually before the Board an estimate of the income and expenditure of the Board for the next ensuing financial year.
- (2) Every such estimate shall make provision for the due fulfilment of all the liabilities of the Board and for the efficient administration of this Act.
- (3) Every such estimate shall differentiate capital and revenue funds, and shall be prepared in such form, and shall contain such details as the Local Government or the Board may from time to time direct.
- (4) Every such estimate shall be completed and printed, and a copy thereof sent, by post or otherwise, to each Trustee, at least ten clear days before the date of the meeting at which the estimate is to be laid before the Board.
- 109. The Board shall consider every estimate so laid before

 Sanction of Board to estimates. them, and shall sanction the same, either without alteration or with such alterations as they may think fit.

- 110. (1) Every such estimate, as sanctioned by the Board, shall be submitted to the Local Government, who Approval of Local Govmay, at any time within two months after ernment to estimates. receipt of the same,—
 - (a) approve the estimate, or
 - (b) disallow the estimate or any portion thereof, and return the estimate to the Board for amendment.
- (2) If any estimate is so returned to the Board, they shall forthwith proceed to amend it, and shall re-submit the estimate, as amended, to the Local Government, who may then approve it.

Transmission of copy of estimate to Chairman of Corporation.

- 111. A copy of every such estimate shall, when approved by the Local Government, be sent by the Board to the Chairman of the Corporation.
- 112. (1) A special meeting of the Board shall be held as soon may be expedient after the day appointed Special provisions as to the first estimate after the under section 17, sub-section (1), and the constitution of the Board. Chairman shall at such special meeting lay before the Board an estimate of the income and expenditure of the Board for the portion of the financial year which on the said day had not expire d.
- (2) The provisions of section 108, sub-sections (2) to (4), and sections 100 to 111 shall apply to the said estimate.
- 113. (1) The Board may, at any time during the year for which any estimate has been sanctioned, Supplementary estimates. cause a supplementary estimate to be prepared and laid before them at a special meeting.
- (2) The provisions of section 108, sub-sections (3) and (4), and sections 100 to 111 shall apply to every supplementary estimat e.
- Adherence to estimate and maintenance of closing balance.
- 114. (1) No sum shall be expended by or on behalf of the Board unless the expenditure of the same is covered by a current budget-grant or can be met by re-appropriation or by drawing on the closing balance.
- (2) The closing balance shall not be reduced below one lakh of rupees without the previous sanction of the Local Government.
- (3) The following items shall be excepted from the provisions of sub-sections (1) and (2), namely,—
 - (a) repayments of moneys belonging to contractors or other persons and held in deposit, and of moneys collected by, or credited to, the Board by mistake;
 - (b) payments due under a decree or order of a Court passed against the Board or against the Chairman ex officio. or under an award of the Tribunal;

(c) sums payable under a compromise of any suit or other 1911. legal proceeding or claim effected under section 154;

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- (d) sums payable under this Act by way of compensation;
- (e) payments required to meet some pressing emergency.
- (4) Whenever any sum exceeding five thousand rupees is expended under clause (e) of sub-section (3), the Chairman shall forthwith report the circumstances to the Local Government, and shall at the same time explain how the Board propose to cover the expenditure.

Banking and Investments.

115. All moneys payable to the Board shall be received by the Chairman, and shall forthwith be paid into Receipt of moneys, and the Bank of Bengal to the credit of an acdeposit in Bank of Bengal. count which shall be styled "The Account of the Trustees for the Improvement of Calcutta."

116. (1) Surplus moneys at the credit Investment of surplus of the said account may from time to time money.

- (a) deposited at interest in the Bank of Bengal or in any other Bank in Calcutta approved by the Local Government in this behalf, or
- (b) invested in any of the securities or debentures mentioned in section 101, sub-section (1), of this Act or in section 20 of the Indian Trusts Act, 1882.*
- (2) All such deposits and investments shall be made by the Chairman on behalf of, and with the sanction of, the Board; and, with the like sanction, the Chairman may at any time withdraw any deposit so made, or dispose of any securities, and re-deposit or re-invest the money so withdrawn or the proceeds of the disposal of such securities.
 - 117. (1) No payment shall be made by the Bank of Bengal out of the account referred to in section Payments cheque. 115, except upon a cheque.
- (2) Payment of any sum due by the Board exceeding one hundred rupees in amount shall be made by means of a cheque, and not in any other way.
- 118. All orders for making any deposit, investment, with-Signature of orders under drawal or disposal under section 116, and section 116, and cheques. all cheques referred to in section 117, must be signed—
 - (a) by the Chairman and the Secretary to the Board, or

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- (b) in the event of the illness or occasional absence from Calcutta of the Chairman or the Secretary, then by the Secretary or the Chairman, as the case may be, and by a Trustee other than the Chairman.
- Duty of Chairman and retary to the Board signs a cheque under others before signing section 118, he must satisfy himself that the sum for which such cheque is drawn either is required for a purpose or work specifically sanctioned by the Board or is an item of one of the excepted descriptions specified in section 114, sub-section (3).

Accounts.

Definition of "cost of management."

120. (1) The expression "cost of management," as used in the following sections in this Chapter, means—

- (a) the salary and house-rent and conveyance allowance (if any) of the Chairman or acting Chairman, and the allowances and contributions referred to in section 11, sub-section (2);
- (b) all fees paid under section 22, for attendance at meetings;
- (c) the salaries, fees and allowances of, and the contributions paid under section 146 in respect of, officers and servants of the Board who are included in statements prepared under section 30;
- (d) the remuneration of other employés of the Board, except employés who are paid by the day or whose pay is charged to temporary work;
- (e) all payments made under section 75 and section 146 on account of the Tribunal; and
- (f) all office expenses incurred by the Board or the Tribunal.
- (2) The expression "office expenses," in clause (f), means expenses incurred for carrying on office work, and includes the rent of offices, the provision of furniture therefor, and charges for printing and stationery.

Keeping of capital account and revenue account. 121. (1) The Board shall keep a capital account and a revenue account.

. (2) The capital account shall show separately all expenditure incurred by the Board on each improvement scheme and each rehousing scheme.

Credits to capital account.

122. There shall be credited to the capital account.

(a) all sums (except interest) received in pursuance of section 78 or section 79;

(b) all moneys received on account of loans taken by the Board in pursuance of section 89 or section 91;

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- (c) the proceeds of the sale of any land vested in the Board which was purchased out of any loan taken in pursuance of section. 89 or section 91;
- (d) Where land was purchased out of an advance from the revenue account, the portion of the proceeds of the sale of such land which remains after crediting to the revenue account the amount of such advance;
- (e) the proceeds of the sale of any moveable property (including securities for money invested from the capital account) belonging to the Board;
- (f) all iump sums received from the Government in aid of the capital account;
- (g) all premia received by the Board in connection with leases for any term exceeding forty years;
- (h) all sums (if any) which the Local Government directs, under section 125, sub-section (2), to be credited to the capital account; and
- (i) all moneys resulting from the sale of securities by direction of the Local Government under section 126.

Application of capital account.

123. The moneys credited to the capital account shall be held by the Board in trust, and shall be applied to—

- (a) meeting all costs of framing and executing improvement schemes and rehousing schemes;
- (b) meeting the cost of acquiring land for carrying out any of the purposes of this Act;
- (c) meeting the cost of constructing buildings required for carrying out any of the purposes of this Act;
- (d) the repayment of loans from money borrowed in pursuance of section 89, clause (b);
- (e) making payments in pursuance of section 149, otherwise than for interest or for expenses of maintenance or working;
- (f) making, or contributing towards the cost of making, surveys, in pursuance of section 167;
- (g) meeting such proportion of the cost of management as
 the Board may, with the sanction of the Local Government, prescribe in this behalf; and
 - (h) temporarily making good the deficit (if any) in the revenue account at the end of any financial year.

Credits to revenue ac. 124. There shall be credited to the revenue account.

- (a) all interest received in pursuance of section 78 or section 79;
- (b) all proceeds received by the Board of taxes imposed by Chapter V.;
- (c) all sums contributed from Municipal Funds which are received by the Board under section 88;
- (d) all fines, damages and proceeds of confiscations received by the Board under section 175;
- (e) all annually recurring sums received from the Government in aid of the funds of the Board;
- (f) all premia received by the Board in connection with leases for any term not exceeding forty years;
- (g) all rents of land vested in the Board; and
- (h) all other receipts by the Board which are not required by section 122 to be credited to the capital account.
- 125. (1) The moneys credited to the revenue account shall

 Application of revenue be held by the Board in trust, and shall be account.

 applied to—
 - (a) meeting all charges for interest and sinking fund due on account of any loan taken in pursuance of section 89, clause (a), or section 91, and all other charges incurred in connection with such loans;
 - (b) paying all sums due from the Board in respect of rates and taxes imposed under the Calcutta Municipal Act, 1899,* upon land vested in the Board;
 - (c) paying the cost (if any) of maintaining a separate establishment for the collection of the rents and other proceeds of land vested in the Board;
 - (d) paying all sums which the Local Government may direct to be paid to any auditor under section 132;
 - (e) making payments in pursuance of section 149, for interest or for expenses of maintenance or working;
 - (f) paying the cost of management, excluding such proportion thereof as may be debited to the capital account under clause (g) of section 123; and
 - (g) paying all other sums due from the Board, other than those which are required by section 123 to be disbursed from the capital account.
- (2) The surplus (if any) remaining after making the payments referred to in sub-section (1) shall,

subject to the maintenance of a closing balance of one lakh of rupees, and

except as provided in section 127, and unless the Local Government otherwise directs,

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be invested, in the manner prescribed in section 101, towards the service of any loans outstanding after the expiry of sixty years from the commencement of this Act.

Power to direct sale of securities in which any surplus of the revenue account is invested.

125, sub-section (2), has been invested, the Local Government is satisfied that the investment is not needed for the service of any loan referred to in that sub-section, it may direct the sale of the securities held under the investment.

- 127. (1) Notwithstanding anything contained in section 125, Advances from revenue the Board may advance any sum standing account to capital account. at the credit of the revenue account for the purpose of meeting capital expenditure.
- (2) Every such advance shall be refunded to the revenue account as soon as may be practicable.
- 128. (1) Any deficit in the revenue account at the end of any Advances from capital account to revenue account. advance from the capital account.
- (2) Every such advance shall be refunded to the capital account in the following financial year.
- 129. The Board shall submit to the Local Government, at the Submission of abstracts of accounts to Local Go-abstract of the accounts of their receipts and expenditure.
 - 130. The accounts of the Board shall, once in every financial year, be examined and audited by such auditor as the Local Government may appoint in this behalf.

Powers of auditor.

- 131. The auditor so appointed may,-
- (a) by written summons, require the production before him of any document which he may consider necessary for the proper conduct of the audit;
- (b) by written summons, require any person having the custody or control of, or being accountable for, any such document to appear in person before him; and
- (c). require any person so appearing before him to make and sign a declaration with respect to any such document, to answer any question, or to prepare and submit any statement.

Remuneration of auditor

132. The Board shall pay to the said auditor such remuneration as the Local Government may direct.

Act 5. Reports and information to be furnished by auditor to the Board.

133. The said auditor shall-

- (a) report to the Board any material impropriety or irregularity which he may observe in the expenditure, or in the recovery of moneys due to the Board, or in the accounts, and report the same to the Local Government,
- (b) furnish to the Board such information as they may from time to time require concerning the progress of his audit, and
- (c) within fourteen days after the completion of his audit, forward his report upon the accounts to the Chairman.
- 134. It shall be the duty of the Board forthwith to remedy any
 Board to remedy defects defects or irregularities that may be pointed out by auditor.

 out by the auditor,
- 135. The Chairman shall cause the report mentioned in sec-Auditor's report to be sent tion 133, clause (c), to be printed, and shall to each Trustee and considered by Board. Trustee, and shall bring such report before the Board for consideration at their next meeting.
- Publication and transmission of an abstract of the accounts to which it relates, and shall pubaccounts.

 Board shall prepare an abstract of the accounts to which it relates, and shall pubaccounts.

 lish such abstract by notification, and shall send a copy of the abstract to the Chairman of the Corporation and to the Local Government.

CHAPTER VII.

RULES.

Further powers to Local Government for making rules.

137. In addition to the power conferred by section 86, the Local Government may make rules—

- (1) for regulating elections under sub-sections (1), (2) and (3) of section 7;
- (2) for prescribing the maximum sum which may be paid to any person by way of fees under section 22;
- (3) for fixing the charge to be made for a copy of, or extracts from, the municipal assessment-book furnished to the Chairman under section 46; and
- (4) for prescribing the form of the abstracts of accounts referred to in sections 129 and 136.

138. (1) In addition to the power conferred by section 31,

Further powers to Board the Board may from time to time make rules for making rules. (not inconsistent with any rules made by the Local Government or the President of the Tribunal under this Act) for carrying out the purposes of this Act.

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- (2) In particular, and without prejudice to the generality of the foregoing power, the Board may make rules—
 - (a) for associating members with the Board under section 19;
 - (b) for appointing persons (other than Trustees and persons associated with the Board under section 19) to be members of Committees under section 20;
 - (c) for regulating the delegation of powers or duties of the Board to Committees under section 20;
 - (d) for the guidance of persons employed by them under this Act;
 - (e) for prescribing the fees payable for copies of documents delivered under section 43, sub-section (3);
 - (f) for facilitating the taking of a census and securing accurate returns thereof;
 - (g) for the maintenance and management of dwellings and shops constructed under rehousing schemes.
- (3) In making any rule under sub-section (1) or sub-section (2), the Board may provide that a breach of it shall be punishable—
 - (i) with fine which may extend to five hundred rupees, or
 - (ii) in case of a continuing breach, with fine which may extend to fifty rupees for every day during which the breach continues after receipt of written notice from the Chairman to discontinue the breach.
- Conditions precedent to the making of rules under section 138 is subject to the condition of the making of rules under section 86, 137 or 138.

 To make rules under section 86, section 137 or section 138 is subject to the condition of the rules being made after previous publication, and to the following further conditions, namely,—
 - (a) a drast of the rules shall be published by notification and in local new spapers;
 - (b) such draft shall not be further proceeded with until after
 the expiration of a period of one month from such publication, or such longer period as the Local Government or (in the case of rules made under section 138) the Board may appoint;
 - (c) for one month at least during such period, a printed copy of such draft shall be kept at the Board's office for

public inspection, and every person shall be permitted at any reasonable time to peruse the same, free of charge;

- (d) printed copies of such draft shall be delivered to any person requiring the same, on payment of a fee of two annas for each copy.
- Sanction of Local Government required to rules made under section 138 shall have any validity unless and until it is sanctioned, with or without modification, by the Local Government.
- 141. When any rule has been made under section 86 or section 137, and when any rule has been made under section 138 and duly sanctioned, it shall be published by the Local Government by notification, and such publication shall be conclusive proof that the rule has been duly made.
- 142. (1) The Chairman shall cause all rules made under sec Printing and sale of copies tion 86, section 137 or section 138 and for of rules. the time being in force to be printed, and shall cause printed copies thereof to be delivered to any applicant on payment of a fee of two annas for each copy.
- (2) Notice of the fact of copies of rules being obtainable at the said price, and of the place where and the person from whom the same are obtainable, shall be given by the Chairman by advertisement in local newspapers.
- 143. Copies, in English and Bengali, of all rules made under Exhibition of copies of section 137 or section 138 shall be hung or affixed in some conspicuous part of the Board's office and in such places of public resort affected by the rules as the Chairman may think fit.

Power of Local Government to cancel rules made under section 138.

144. The Local Government may at any time, by notification, cancel any rule made by the Board under section 138.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

Status of Trustees, etc.

145. Every Trustee, and every officer and servant of the Board,
Trustees, etc., deemed and every member and officer and servant
public servants. of the Tribunal, shall be deemed to be a
public servant within the meaning of section 21 of the Indian Penal
Code.*

Contributions towards leave-allowances and pensions of Government

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Centributions by Board towards leave-allowances and pensions of Government servants employed under this Act.

146. The Board shall be liable to pay such contributions for the leave allowances and pension of any Government servant employed as Chairman or as an officer or servant of the Board, or as a member or officer or servant of the Tribunal, as may be prescribed in any general

or special orders of the Government for regulating the transfer of Government servants to foreign service.

Extension of Acts to areas in the neighbourhood of the Calcutta Municipality.

Power to extend the Calcutta Municipal Act, 1899, to areas, near Calcutta, to which provisions of the present Act have been extend-

147. (1) When any provision of this Act has been extended to any area under section 1, sub-section (3), the Local Government may, by notification published in the Calcutta Gazette and in such other manner (if any) as it may consider necessary, extend to such area the Calcutta Municipal Act, 1899,* or any portion there-

of, subject to such restrictions and modifications (if any) as may be specified in such notification.

- (2) When the said Calutta Municipal Act, 1899,* or any portion thereof, is extended under sub-section (1) to any area, then—
 - (a) the Bengal Municipal Act, 1884,† or the Bengal Local Self-Government Act of 1885,‡ as the case may be, or the corresponding portion of such Act, as the case may be, if in force in such area, shall be deemed to be repealed therein, and,
 - (b) except as the Local Government may otherwise, by notification, direct, all rules, by-laws, regulations, orders. directions and powers made, issued or conferred under the portions of the said Calcutta Municipal Act, 1899,* which have been so extended and in force at the date of such extension shall apply to the said area, in supersession of all corresponding rules, by-laws, regulations, orders, directions and powers (if any) made, issued or conferred under the said Bengal Municipal Act, 1884, for the said Bengal Local Self Government Act of 1885,‡ as the case may be.
- 148. (1) Before finally publishing any notification under section 1, sub-section (3), or section 147 sub-Publication of notificasection (1), the Local Government shall tions under sections (3) publish a draft of the same in the Calcutta and 147 (1) in draft, for criticism. .. azette.

[†] Ben. Act. III, of 1884, Ben. Act, III. of 1899. ‡ Ben. Act 111. of 1885. B. C .- 198.

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(2) Any ratepayer or inhabitant of the area affected by such draft may, if he objects to the draft, submit his objection in writing to the Local Government within six weeks from its publication, and the Local Government shall take such objection into consideration.

Facilities for movement of the population.

Powers of the Board for facilitating movement of the population.

149. With a view to facilitating the movement of the population in and around the Calcutta Municipality, the Board may from time to time,—

- (1) subject to any conditions they may think fit to impose,—
 - (a) guarantee the payment, from the funds at their disposal, of such sums as they may think fit, by way of interest on capital expended on the construction, maintenance or working of means of locomotion, or
- (b) makes such payments as they may think fit from the said funds, by way of subsidy to persons undertaking to provide, maintain and work means of locomotion; or
- (2) either singly or in combination with any other person, construct, maintain and work any means of locomotion, under the provisions of any law applicable thereto, or
- (3) construct, or widen, strengthen or otherwise improve, bridges:

Provided that no guarantee or subsidy shall be made under clause (1), and no means of locomotion shall be constructed, maintained or worked under clause (2), without the sanction of the Local Government.

Telegraph and Railways Acts.

150. Nothing in this Act shall be deemed to affect the pro-Saving of Telegraph and visions of the Indian Telegraph Act, 1885,* Railways Acts. or the Indian Railways Act, 1890,†

Legal Proceedings.

Cognizance of offences.

151. Notwithstanding anything contained in the Code of Criminal Procedure, 1898.‡

all offences against this Act or any rule made hereunder shall, wherever committed, be cognizable by a Presidency Magistrate;

and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence by reason only of being

^{*} Act XIII. of 1885.

liable to pay any tax imposed by this Act or of his being benefited by the funds to the credit of which any fine imposed by him will be payable.

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- 152. No person shall be liable to punishment for any offence

 Limitation of time for against this Act or any rule made hereunder

 prosecution. unless complaint of such offence is made
 before a Presidency Magistrate within three months next after the

 commission of such offence.
- Power to hear case in a Presidency Magistrate to answer a charge absence of accused when of an offence against this Act or any rule made hereunder which is punishable with fine only, fails to appear at the time and place mentioned in the summons, the Magistrate may, if service of the summons is proved to his satisfaction, and if no sufficient cause is shown for the non-appearauce of such person, hear and determine the case in his absence.

Powers of Chairman as to institution, etc., of legal proceedings and obtaining control of the Board,—
legal advice.

- (a) institute, defend or withdraw from, legal proceedings under this Act or any rule made hereinunder;
- (b) compound any offence against this Act or any rule made hereunder which, under any law for the time being in force, may lawfully be compounded;
- (c) admit, compromise or withdraw any claim made under this Act or any rule made hereunder; and
- (d) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Board to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or servant of the Board.
- 155. No suit shall be maintainable against the Board, or any Indemnity to Board, etc.

 Trustee, or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any officer or servant of the Board, in respect of anything lawfully and in good faith and with due care and attention done under this Act or any rule made hereunder.
- 156. No suit shall be instituted against the Board, or any Notice of suit against Trustee, or any officer or servant of the Board, etc.

 Board, or any person acting under the direc-

tion of the Board or of the Chairman or of any officer or servant of the Board, in respect of any act purporting to be done under this Act or any rule made hereunder,

until the expiration of one month next after written notice has been delivered or left at the Board's office or the place of abode of such officer, servant or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims;

and the plaint must contain a statement that such notice has been so delivered or left.

Police.

- 157. (1) The Commissioner of Police and his subordinates shall be bound to co-operate with the Chair-Co-operation man for carrying into effect and enforcing. the provisions of this Act.
- (2) It shall be the duty of every Police-officer who is subordinate to the Commissioner of Police—
 - (i) to communicate without delay to the proper officer or servant of the Board any information which he receives of a design to commit or of the commission of any offence against this Act or any rule made hereunder,
 - (ii) to assist the Chairman or any officer or servant of the Board reasonably demanding his aid for the lawful exercise of any power vesting in the Chairman or in such officer or servant under this Act or any such rule.
- 158. (1) Every Police-officer shall arrest any person who commits, in his view, any offence against this Arrest of offenders. Act or any rule made hereunder, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address, or gives a name or address which such officer has reason to believe to be false.
- (2) No person so arrested shall be detained in custody after his true name and address are ascertained, or, without the order of a Magistrate, for any longer time, not exceeding at the most twentyfour hours from the arrest, than is necessary for bringing him before a Magistrate.
- (3) On the written application of the Chairman, any Policeofficer obove the rank of constable shall arrest any person who obstructs any officer or servant of the Board in the exercise of any of the powers conferred by this Act or any rule made hereunder.

Evidence.

Proof of consent, etc., of Board or Chairman or officer or seevant of Board.

159. Whenever, under this Act or any rule made hereunder, the doing or the omitting to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of(a) the Board or the Chairman, or

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(b) any officer or servant of the Board,

a written document, signed in case (a) by the Chairman, and in case (b) by the said officer or servant, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

Validation.

Validation of acts and proceedings.

160. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

- . (a) the existence of any vacancy in, or any defect in the constitution of, the Board or any Committee; or
 - (b) any person having ceased to be a Trustee; or
 - (c) any Trustee, or any person associated with the Board under section 19, or any other member of a Committee appointed under this Act, having voted or taken any other part in any proceeding in contravention of section 23; or
 - (d) the failure to serve a notice under section 45 on any person, where no substantial injustice has resulted from such failure; or
 - (') any omission, defect or irregularity not affecting the merits of the case.
- (2) Every meeting of the Board, the minutes of the proceedings of which have been duly signed as prescribed in section 18, clause (h), shall be taken to have been duly convened and to be free from all defect and irregularity.

Compensation.

- 161. In any case not otherwise expressly provided for in this General power of Board Act, the Board may pay reasonable compento pay componisation.

 sation to any person who sustains damage by reason of the exercise of any of the powers vested, by this Act, or any rule made or scheme sanctioned hereunder, in the Board or the Chairman or any officer or servant of the Board.
- Compensation to be paid been convicted of an offence against this by offenders for damage Act or any rule made hereunder, and, by reason of the same act or omission of the said person, damage has occurred to any property of the Board, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

- (2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence.
- (3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Magistrate, as if it were a fine inflicted by him on the person liable therefor.

Public Notices and Advertisements.

163. Every public notice given under this Act or any rule
Public notices how to be made hereunder shall be in writing over the signature of the Chairman,

and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in local newspapers, or by any two or more of these means, and by any other means that the Chairman may think fit.

Newspapers in which ad. hereunder that notice shall be given by vertisements or notices to advertisement in local newspapers, or that a notification or any information shall be published in local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two English newspapers and two vernacular newspapers.

Signature and Service of notices or bills.

- 165. Every notice or bill, which is required by this Act or by Stamping signature on any rule made hereunder to bear the signature of the Chairman or of any other Trustee or of any officer or servant of the Board, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman or of such other Trustee or of such officer or servant, as the case may be, stamped thereupon.
- Service how to be effected this Act or any rule made hereunder to be served upon or issued or presented to any person, such service, issue or presentation shall be effected—
 - (a) by giving or tendering such document to such person;
 - (b) if such person is not found, by leaving such document at his last known place of abode in Calcutta, or by giving or tendering the same to some adult male member or servant of his family; or
 - (c) if such person does not reside in Calcutta, and his address elsewhere is known to the Chairman, by

forwarding such document to him by registered post 1911. under cover bearing the said address; or

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(d) if none of the means aforesaid be available, by causing a copy of such document to be affixed on some conspicuous part of the land (if any) to which the document relates.

Surveys.

Power to make surveys, or contribute towards their costs.

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167. The Board may—

- (a) cause a survey of any land to be made, whenever they consider that a survey is necessary or expedient for carrying out any of the purposes of this Act, or
- (b) contribute towards the cost of any such survey made by any other local authority.

Power of Entry.

Power of entry.

168. (1) The Chairman may, with or without assistants or workmen, enter into or upon any land, in order-

- (a) to make any inspection, survey, measurement, valuation or inquiry,
- (b) to take levels;
- (c) to dig or bore into the subsoil,
- (d) to set out boundaries and intended lines of work,
- (e) to mark such levels, boundaries and lines by placing marks and cutting trenches, or
- (1) to do any other thing,

whenever it is necessary to do so for any of the purposes of this Act or any rule made or scheme sanctioned hereunder or any scheme which the Board intend to frame hereunder:

Provided as follows:—

- (a) no such entry shall be made between sunset and sunrise:
- (b) no dwelling-house, and no public building or hut which is used as a dwelling-place, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry:
- (c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment

- appropriated to females to remove to some part of the premises where their privacy need not be disturbed;
- (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.
- (2) Whenever the Chairman enters into or upon any land in pursuance of sub-section (1), he shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid; and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Board, whose decision shall be final.

Penalties.

Punishment for acquiring share or interest in contract, etc., with the Board.

officer or servant, any share or interest in any contract or employement with, by, or on behalf of, the Board,

not being a share or interest such as, under sub-section (2) of section 9, it is permissible for a Trustee to have without being thereby disqualified for being appointed a Trustee,

he shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.*

Penalty for removing 170. If any person, without lawful fence, etc., in street.

- (a) removes any fence or shoring-timber, or removes or extinguishes any light, set up under section 59, or
- (b) infringes any order given, or removes any bar, chain or post fixed, under section (o, sub-section (2),

he shall be punishable with fine which may extend to fifty rupees.

- 171. If any person, without the permission of the Board, Penalty for building erects, re-erects, adds to, or alters any within street alignment or building or wall so as to make the same fall building line fixed by Board. Within the street alignment or building line shown in any plan finally adopted by the Board under section 63, he shall be punishable—
 - (a) with fine which may extend, in the case of a masonry building or a wall, to five hundred rupees, and, in the case of a hut, to fifty rupees, and

(b) with further fine which may extend, in the case of a masonry building or a wall, to one hundred rupees, and, in the case of a hut, to ten rupees, for each day after the first during which the projection continues.

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- 172. If any person fails to set back any building, wall or part thereof when so required by notice issued Penalty for failure to set under section 63, sub-section (6), he shall back building or wall on requisition. be punishable—
 - (a) with fine which may extend to one hundred rupees, or
 - (b) in case of a continuing failure, with fine which may extend to twenty rupees for each day after the first during which the failure continues.

Penalty for failure to comply with requisition made by auditor.

173. If any person fails to comply with any requisition made under section 131, he shall be punishable—

- (a) with fine which may extend to one hundred rupees; or
- (b) in case of a continuing failure, with fine which may extend to fifty rupees for each day after the first during which the failure continues.

Penalty for obstructing contractor or removing mark.

174. If any person—

- (a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the Board, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule made hereunder, or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Act or any rule made or scheme sanctioned hereunder.

he shall be punishable with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months.

Disposal of Fines and Damages.

175. All fines and damages realized, and the proceeds of all confiscations, in cases in which prosecutions . Fines, damages and proceeds of confiscations to be are instituted under this Act or any rule paid to Board. made hereunder, shall be paid to the Board.

Suspension or abolition, and re-imposition, of taxation or Municipal contributions.

Suspension or abolition, and re-imposition, of taxation or Municipal contributions.

176. (1) Whenever the Local Government considers that any duty or tax imposed by Chapter V. or any payment required by section 88, or any portion of any such duty, tax or payment, as the case may be, is not required for the purposes '911. of this Act, it may, by notification, with the previous sanction of the Government of India,—

- (a) suspend, for any specified period, the levy of such duty or tax or any specified portion thereof, or the making of such payment or any specified portion thereof, or
- (b) abolish such duty, tax or payment, or any specified portion thereof, from a date to be specified in the notification.
- (2) If at any time the Local Government considers that any duty, tax or payment, or any portion thereof, which has been suspended or abolished under sub-section (1) is required for the purposes of this Act, it may, by notification, with the previous sanction of the Government of India, cancel such suspension or abolition, wholly or in part, as it may think fit, from a date to be specified in the notification.

Dissolution of Board.

- Ultimate dissolution of Board, and transfer of their assets and liabilities to the Corporation.

 Board, in the opinion of the Local Government, unnecessary, the Local Government may, by notification, with the previous sanction of the Government of India, declare that the Board shall be dissolved from such date as may be specified in this behalf in such notification; and the Board shall be deemed to be dissolved accordingly.
 - (2) From the said date,—
 - (a) all properties, funds and dues which are vested in or realizable by the Board and the Chairman, respectively, shall vest in and be realizable by the Corporation and the Chairman of the Corporation, respectively; and
 - (b) all liabilities which are enforceable against the Board shall be enforceable only against the Corporation;
 and
 - (c) for the purpose of completing the execution of any scheme, sanctioned under this Act, which has not been fully executed by the Board, and of realizing properties, funds and dues referred to in clause (a), the functions of the Board and the Chairman under this Act shall be discharged by the Corporation and the Chairman of the Corporation, respectively; and
 - (d) the Corporation shall keep separate accounts of all moneys respectively received and expended by them under this Act, until all loans raised hereunder have been repaid, and until all other liabilities referred to in clause (b) have been duly met.

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[Referred to in section 71.]

FURTHER MODIFICATIONS IN THE LAND ACQUÍSITION ACT, 1894.*

- Amendment of section 3.

 1. After clause (e) of section 3 the following shall be deemed to be inserted, namely—
 - "(e1) the expression 'local authority' includes the Board of Trustees constituted under the Calcutta Improvement Act, 1911."

Amendment of section 11.

2. To section 11 the following shall be deemed to be added, namely:—

" and

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- "(iv) the costs which, in his opinion, should be allowed,
 - to any person who is found to be entitled to compensation, and who is not entitled to receive the additional sum of fifteen per centum mentioned in section 23, subsection (2),
 - as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector.
- "The Collector may disallow, wholly or in part, costs incurred by any person, if he considers that the claim made by such person for compensation is extravagant."
 - 3. In section 15, for the word and figures "and 24" the figures, word and letter "24 and 24A" shall be deemed to be substituted.
 - 4. (1) In section 17, sub-section (3), after the figures "24" the words, figures and letter "or section 24A" shall be deemed to be inserted.
- (2) To the said section 17 the following shall be deemed to be added namely:—
- "(4) Sub-sections (1) and (3) shall apply also in the case of any area which is stated in a certificate granted by a salaried Presidency Magistrate or a Mrgistrate of the first class to be unhealthy.
- "(5) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub-section (3) of section 9, and shall hear without any avoidable delay any objections which may be urged by them.
- "(6) When proceedings have been taken under this section for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession."

New section 17A.

- 5. After section 17 the following shall be deemed to be inserted, namely:—
- "17A. In every case referred to in section 16 or section 17,
 Transfer of land to Board. the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Board; and the land shall thereupon vest in the Board, subject to the liability of the Board to pay any further costs which may be incurred on account of its acquisition."
 - 6. At the end of section 18, sub-section (1), the words "or the amount of the costs allowed" shall be deemed to be inserted.
 - 7. After the words "amount of compensation," in clause (c) of section 19 the words "and of costs (if any)," shall be deemed to be inserted.
- 8. After the words "amount of the compensation," in clause

 Amendment of section 23. (c) of section 20, the words "or costs" shall be deemed to be inserted.
- 9. (1) In sub-section (2) of section 23, after the words "in Amendment of section 23. every case" the following shall be deemed to be inserted, namely:—
 - "except where the land acquired is situated in the Calcutta
 Municipality and within the area comprised in an
 improvement scheme sanctioned under the Calcutta
 Improvement Act, 1911."
- (2) At the end of section 23 the following shall be deemed to be added, namely:—
- "(3) For the purposes of clause first of sub-section (1) of this section,—
 - (a) the market-value of the land shall be deemed to be the market-value according to the disposition of the land at the date of the publication of the declaration relating thereto under section 6;
 - (b) if it be shown that, before such declaration was published, the owner of the land had taken active steps and incurred expenditure to secure a more profitable disposition of the same, further compensation, based on his actual loss, may be paid to him;
 - (c) if the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the aforesaid declaration was published, such increase shall be disregarded, unless it be proved that the improvement was made bond fide and not in contemplation of proceedings for the acquisition of the land being taken under this Act;

(d) if the market-value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded, and the market-value shall be deemed to be the marketvalue of the land if put to ordinary uses; and

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(e) if the market-value of any building is specially high in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded, and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as could be accommodated in it without risk of danger from overcrowding."

Amendment of section 24.

10. For clause seventhly of section 24 the following shall be deemed to be substituted, namely:—

"seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date of the publication of the declaration under section 6, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair."

New section 24A.

11. After section 24 the following shall be deemed to be inserted, namely:—

- "24A. In determining the amount of compensation to be Further provisions for de. awarded for any land acquired for the Board termining compensation. under this Act, the Tribunal shall also have regard to the following provisions, namely,—
- (1) when any interest in any land acquired under this Act has been acquired after the date of the publication of the declaration under section 6, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land;
- (2) if, in the opinion of the Tribunal, any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which the Tribunal considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, minus the estimated cost of putting it into such condition or state;
- (3) if, in the opinion of the Tribunal, any building, which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for human habitation, the amount of compensation shall not exceed the value of the materials of the building, minus the cost of demolishing the building."

- 12. (1) After the words "the compensation" in sub-section

 Amendment of section 31. (1) of section 31, and after the words "the amount of the compensation" in sub-section

 (2) of that section, the words "and costs (if any)" shall be deemed to be inserted.
- (2) After the words "any compensation," in the concluding proviso to sub-section (2) of section 31, the words "or costs" shall be deemed to be inserted.—

New sections 34A and 48B. 13. After section 48 the following shall be deemed to be inserted, namely:—

- "48A. (1) If, within a period of two years from the date of Compensation to be the publication of the declaration under warded when land not section 6, in respect of any land, the Colacquired within two years. lector has not made an award under section 11 with respect to such land, the owner of the land shall be entitled to receive compensation for the damage suffered by him in consequence of the delay.
- (2) The provisions of Part III. of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.
- "48B. No compensation shall be payable in pursuance of Sections 48 and 48A not section 48 or section 48A when proceed-to apply in certain cases. ings for the acquisition of land have been abandoned on the execution of an agreement, or the acceptance of a payment, in pursuance of sub-section (4) of section 78 of the Calcutta Improvement Act, 1911."

Amendment of section 49.

14. After sub-section (1), of section 49, the following shall be deemed to be inserted, namely:—

"(1a) For the purposes of sub-section (1), land which is held with and attached to a house and is reasonably required for the enjoyment and use of the house shall be deemed to be part of the house."

BEN. ACT NO. I. OF 1912.

1912. Act 1.

The Calcutta Port (Amendment) Act, 1912.

PUBLISHED IN THE CALCUTTA GAZETTE OF THE 27TH MARCH 1912.

An Act further to amend the Calcutta Port Act, 1890.

WHEREAS it is expedient further to amend the Calcutta Port Act, 1800,* in the manner hereinafter appearing;

It is hereby enacted as follows:—

Short title.

- 1. This Act may be called the Calcutta Port (Amendment) Act, 1912.
- Amendment of Bengal Act III. of 1890, sections 49 and 50.
- 2. For sections 49 and 50 of the Calcutta Port Act, 1890, the following shall be substituted, namely :—
- "49. The Commissioners in meeting may sanction works and enter into contracts for their execution: Power of Commissioners

in meeting to sanction works and make contracts for their execution.

Provided that no new work the estimated cost of which exceeds two thousand rupees, shall be commenced until a plan and estimate have been approved by the Commissioners in meeting."

"50. Notwithstanding anything contained in section 49, the Vice-Chairman may direct the execution Powers of Vice-Chairman as to execution of of any work the cost of which does not works. exceed one thousand rupees, and may enter into contracts for the execution of such works."

Amendment of section 73.

3. For section 73 of the said Act the following shall be substituted, namely:—

"73. Save in cases of pressing emergency, no sum chargeable against income and exceeding five thou-Adherence to estimate. sand rupees shall be expended, by or on behalf of the Commissioners, unless it be covered by an estimate sanctioned under this Part and finally approved by the Local Government and in force at the time."

Ben. Act III. of 1800.

1912. Act 2.

BEN. ACT NO. II. OF 1912.

The Bengal Mining Settlements Act, 1912.

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BEN. ACT NO. II. OF 1912.

The Bengal Mining Settlements Act, 1912.

Published in the Calcutta Gazette Extraordinary of the 30th March, 1912.

An Act to provide for the better control and sanitation of Mining Settlements in Bengal.

WHEREAS it is expedient to provide for the better control and sanitation of mining settlements in Bengal;

It is hereby enacted as follows:—

- Short title and extent.

 1. (1) This Act may be called the Bengal Mining Settlements Act, 1912, and
- (2) It extends to the whole of Bengal, including the Sonthal Parganas.
 - 2. The expressions "agent," "employed," "mine" and "owner," as used in this Act, shall have the same meaning as in section 3 of the Indian Mines Act, 1901.*

^{*} Act VIII. of 1901.

8. (1) The Local Government may, by notification in the local
Appointment of Mines Official Gazette, appoint, for any area or areas in which persons employed in a mine reside, a Mine's Board of Health, consisting of not less than five or more than nine persons; and shall appoint one of the members to be Chairman.

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- (2) Two of the persons appointed under sub-section (1) shall be nominated by owners of mines or their representatives, provided that, if the Board consists of more than five members, three shall be so nominated.
- (3) One of the persons appointed under sub-section (1) shall be nominated by persons who receive royalties, rents or fines from mines.
- . (4) Nominations under sub-section (2) or sub-section (3) must be made under such procedure, and within such period, as may be prescribed by rules made under this Act; and in default of nomination in accordance with such rules, the Local Government may appoint any person it thinks fit.
- 4. (1) The Local Government may, of its own motion, or after Procedure for declaring considering any report submitted to it by a meat to be a mining settle- Mines Board of Health, publish a notice in the local official Gazette and in such other manner (if any) as it may think fit, intimating its intention to declare any area (not being or forming part of a mine) to be a mining settlement for the purposes of this Act.
- (2) The Local Government shall consider any objections to the intended declaration which may be submitted to it in writing within such period as may be specified in this behalf in the said notice,

and may then, by notification in the local official Gazette, declare that any area or portion of an area referred to in the said notice shall, for the purposes of this Act, be a mining settlement, and be subject to the authority of such Mines Board of Health as the Local Government may designate.

- 5. (1) The Local Government shall appoint as many Sanitary
 Appointment, status and Officers as it may consider necessary for duties of Sanitary Officers. mining settlements, and shall declare the Mines Board of Health to which such officer shall be subordinate.
- (2) Every Sanitary Officer shall be deemed to be public servant within the meaning of the Indian Penal Code.
- (3) It shall be the duty of a Sanitary Officer appointed to a mining settlement or any part thereof—
 - (a) to report to the Mines Board of Health what measures should, in his opinion, be taken—
 - (i) to provide for the supply of filtered, boiled or other water,

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- (ii) to provide for sanitation and conservancy and
- (iii) to provide for the housing of residents; and
- (b) to exercise, subject to the control of the Mines Board of Health to which he is subordinate, such other functions, consistent with the objects of this Act and calculated to prevent the outbreak or spread of dangerous epidemic disease, the Local Government may, by general or special order, direct, or as may be delegated to him by such Board.

Notice requiring owners to execute and maintain w rks of sanitation, or to carry on periodical sanitary opera-

- 6. (1) If the Mines Board of Health approve any measures reported by a Sanitary Officer under clause (a) of sub-section (3) of section 5,
- or if they consider that any other measures should be taken to provide for any of the purposes referred to in that clause,

the Board shall serve,—

- (a) on the owners of all mines in which are employed persons residing in the mining settlement, or in the part of the mining settlement to which such measures relate, or
- (b) on the holders of the land occupied by such mining settlement or part, if they are not the owners of the said mines,

a notice specifying such measures and requiring such owners or landholders-

- (i) to execute, within a period to be fixed by the notice, all works that the Board may consider necessary for carrying such measures into effect, and to maintain in good repair all works so executed, or
- (ii) to carry on continuously such periodical operations as the Board may direct, for carrying such measures into effect, or
- (iii) both to execute and maintain works and to carry on operations as aforesaid.
- (2) Nothing in this section shall apply to landholders other than proprietors, permanent tenure-holders, rent-free holders or holders of a maintenance grant.
- 7. If any work required by a notice served under section 6

 Power for Mines Board of Health to execute work in default of owners.

 be not executed to the satisfaction of the Board within the period fixed by the notice, or within such further period (if any) as may be allowed by the Board, or

if any work executed in pursuance of any such notice be not maintained in repair to the satisfaction of the Board, or

if any operations required by any such notice be not carried on to the satisfaction of the Board,

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the Board, after serving a warning notice on the defaulters, shall prepare an estimate of the cost of the work which ought, in their opinion, to be carried out, and may entertain any establishment necessary for the preparation of such estimate, and may also cause such work to be executed.

8. Any of the powers or duties conferred or imposed by section Power for Chairman to dis. 6 or section 7 upon a Mines Board of Health may be exercised or performed by the Chairman of the Board in any case which he considers to be of such urgency as to render it impracticable to hold a meeting of the Board.

Service of notices.

- 9. Any notice sent by post under section 6 or section 7 shall be forwarded under registered cover.
- 10. (1) All expenses incurred by a Mines Board of Health for Charging, apportionment the purposes of this Act, other than expenses under section 7 and section 8, shall be charged to—
 - (a) all owners of mines in which are employed persons residing in the mining settlements which are subject to the authority of that Board, and
 - (b) all persons who receive any royalty, rent or fine from such mines.
- (2) All expenses incurred by a Mines Board of Health under section 7, or by the Chairman thereof under section 8, whether or not they exceed the estimate prepared under the former section,

and all expenses incurred by any holder of land in executing or maintaining any work or carrying on any operations in pursuance of a notice served under clause (b) of sub-section (r) of section 6 shall be charged to—

- (i) all owners of mines in which are employed persons residing in the settlement or part, and
- (ii) all persons who receive any royalty, rent or fine from such mines;

Provided that, if it can be shown to the satisfaction of the Board that the insanitary condition is distinctly referable to any act or omission on the part of one or more mine-owners in respect to his or their property, the Board may direct that the expenses incurred shall be payable by such owner or owners only.

(3) Save in the case specified in the proviso to sub-section (2), the expenses referred to in sub-sections (1) and (2) shall be charged to the said owners and persons in such proportions as the Local Government may, from time to time, direct:

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Provided that the assessment shall be based—

- (i) in the case of owners of mines, on the output of their mines; and
- (ii) in the case of the receivers of any royalty, rent or fine, on the road cess payable by such persons.
- (4) All expenses chargeable under this section shall be recoverable as if they were arrears of land-revenue.
- (5) When any expenses incurred by any holder of land in executing or maintaining any work or carrying on any operations in pursuance of a notice served under clause (b) of sub-section (1) of section 6, have been recovered, they shall be repaid to him:

Provided that, if any question arises as to the amount of expenses incurred by such landholder, the award of the Mines Board of Health shall, subject to an appeal to the Commissioner, be final.

- 11. (1) The Local Government may, by notification in the local official Gazette, make rules for carrying out the purposes and objects of this Act in respect of all mining settlements or any groups or classes of mining settlements.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may—
 - (a) provide for the nomination, appointment and tenure of office of members of a Mines Board of Health, and regulate the procedure of such Board and the powers and functions of the Chairman;
 - (b) regulate all expenditure to be incurred by a Mines Board of Health, and the methods under which sums due to it may be calculated and recovered;
 - (c) regulate the duties and powers of Sanitary Officers, and provide for appeals from their orders;
 - (d) prescribe the duties of owners, agents and managers of mines in respect of mining settlements, and of all persons acting under them;
 - (e) prescribe the matters in respect of which notices, returns and reports shall be furnished by owners, agents and managers of mines, the form of such notices, returns and reports, the persons and authorities to whom they are to be furnished, and the particulars to be contained in them;
 - (f) prescribe the plans (if any) to be kept by owners, agents and managers of mines in respect of mining settlements, and the manner and places in which they are to be kept for purposes of record;

(g) provide for the supply of filtered, boiled or other water, and for sanitation and conservancy, in mining settlements:

- (h) provide for the taking of measures to prevent the outbreak or spread of dangerous epidemic disease in mining settlements;
- (i) provide against the accumulation of water in mining settlements.
- (3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.
- (4) The date to be specified as that on or after which a draft of rules proposed to be made under this section will be taken into consideration shall not be less than three months from the date on which the draft of the proposed rules was published for general information.
- (5) Where a Mining Board has been constituted under section g of the Indian Mines Act, 1901,* any rule to be made under this Act shall, before it is published for criticism under sub-section (3), be referred to the Mining Board, and the rule shall not be so published until the said Board has been consulted as to the suitability of its provisions.
- (6) All rules made under this section shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted in this Act.

12. A Sanitary Officer may, within any Powers of Sanitary Offimining settlement for which he is appoincer. ted.—

- (a) make such examination and inquiry as he thinks fit, in order to ascertain whether the provisions of this Act and of the rules and orders made thereunder are ob-
- (b) enter, with such assistants (if any) as he thinks fit, inspect and examine any mining settlement or any part thereof, at all reasonable times by day or by night;
- (c) examine into, and make inquiry respecting, the sanitary condition of any mining settlement or any part thereof, and the sufficiency of the rules for the time being in force in the settlement; and
- (d) do all other things required of him by or under this Act.
- 13. The owners, agents and managers of mines in which are employed persons residing in any mining Facilities to be afforded to Sanitary Officers. settlement, or

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the owners of the land occupied by such settlement, if they are not the owners of such mines.

shall furnish the Sanitary Officer, on requisition, with all reasonable facilities for making any entry, inspection, examination or inquiry under this Act, in relation to the sanitary condition of such settlement.

- 14. A Mines Board of Health shall have the powers of a Civil

 Powers of Mines Boards

 Court for the purpose of enforcing the atof Health for obtaining tendance of witnesses and compelling the
 evidence.

 production of documents; and every person
 required by any such Board to furnish information before it shall
 be deemed to be legally bound to do so within the meaning of
 section 176 of the Indian Penal Code.*
- Penalties for offences. charge of his duties under this Act, or refuses or wilfully neglects to furnish him with the means necessary for making any entry, inspection, examination or inquiry thereunder in relation to any mining settlement, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.
- (2) Whoever makes, gives or delivers any notice or return required by or under this Act which contains a statement, entry or detail which is not, to the best of his knowledge or belief, true, shall be punishable with fine which may extend to five hundred rupees.
 - (3) Whoever-
 - (a) fails to comply with any requisition or order made under any provision of this Act or of any rule or order made thereunder; or
 - (b) contravenes any provision of this Act or any rule or order thereunder, for the breach of which no penalty is otherwise provided,

shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing breach under clause (a) of this sub-section, with a further fine which may extend to fifty rupees for every day during which the breach is proved to have been persisted in after the date of the receipt by him of the requisition or order referred to in that clause.

- (4) All fines realised under this section shall be made over to the Mines Board of Health at whose instance the prosecution was instituted, to be employed in furtherance of the objects of this Act.
- 16. No prosecution shall be instituted against any owner,
 Prosecution of owner, agent or manager of a mine for any offence
 agent or manager. against this Act or any rule or order thereunder, except at the instance of a Mines Board of Health.

17. No Court shall take cognizance of any offence against this

Limitation of prosecutions. Act or any rule or order thereunder, unless
complaint thereof is made within six months
of the date on which the offence is alleged to have been committed.

1912. Act 2.

- 18. No Court inferior to that of a Magistrate of the first class or Sub-divisional Magistrate shall try any offence against this Act or any rule or order thereunder which—
 - (a) is alleged to have been committed by any owner, agent or manager of a mine, or
 - (b) is punishable with imprisonment.

Power of Local Government to alter or rescind orders. 19. The Local Government may reverse or modify any order passed under this Act by any authority.

BEN. ACT NO. I. OF 1913.

The Calcutta Burial Boards (Amendment) Act, 1913.

Published in the Calcutta Gazette of the 2nd April, 1913.

An Act to amend section 14 of the Calcutta Burial Boards Act, 1889.*

WHEREAS it is expedient to amend section 14 of the Calcutta Burial Boards Act, 1889; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Calcutta Burial Boards (Amendment) Act, 1913.

Amendment of section 14 of Bengal Act IV. of 1880.

- 2. For section 14 of the Calcutta Burial Boards Act, 1889, the following shall be substituted, namely:—
- "14. (1) The Local Government may, by notification in the Appointment of Burial Calcutta Gazette, appoint a Burial Board Board for any community. for Calcutta, for any community other than the Christian and Muhammadan communities,
 - (2) Every such Board shall consist of-
 - (a) the Chairman of the Corporation of Calcutta,
 - (b) the Health Officer of the Corporation of Calcutta,
 - (c) an officer of the Public Works Department to be nominated from time to time by the Local Government, and
 - (d) not less than three nor more than six members representing the community concerned, to be nominated from time to time by the Local Government.

1600 CALCUTTA BURIAL BOARDS (AMENDMENT) ACT.

1913.

- (3) The Chairman of the Corporation of Calcutta shall be the Chairman of every such Board.
- Removal of nominated Calcutta Gazette, declare that any nomimembers of Boards appointed under section 14. ed under section 14 shall cease to be a member if he has, without the leave of the Chairman of the Board, been absent from, or is unable to attend, the meetings of the Board for any period exceeding six consecutive months.
- "16. If any nominated member of any such Board be per-Filling of casual vacan. mitted by the Chairman of the Board to cies. absent himself from meetings of the Board for any period exceeding three months,

or dies, or resigns his membership, or ceases to be a member in pursuance of a notification published under section 15,

the vacancy shall be filled by a fresh nomination under section 14.

- Term of office of nomi. such Board shall commence on such day as mated members.

 The most office of nomi. such Board shall commence on such day as may be appointed by the Local Government.
- (2) Subject to the provisions of section 4, sub-section (2), and section 15, the term of office of members nominated to any such Board shall be as follows:—
 - (a) a member nominated in pursuance of section 16 in the place of a member who has been permitted to absent himself from meetings of the Board—the period of the absence of the latter member; and
 - (b) other members—five years.
- (3) Any nominated members shall be eligible for re-nomination at the end of his term of office.
- "18. The Local Government may place under the superintendence, management or control of the Burial Board appointed for any community under section 14—
 - (a) any portion of a public Muhammadan burial-ground which is excluded from the control of the Muhammadan Burial Board by the proviso to section 6, and which is used for the interment of persons belonging to such community, and
 - (b) any other public burial-ground, or portion thereof, which is used, or is intended to be used, for the interment of persons belonging to such community.
- "19. Section 4, sub-section (2), and sections 8 to 13 shall

 Application of sections apply, mutatis mutandis, to all Burial Boards appointed under section 14 and to burialgrounds under the superintendence, manage-

CALCUTTA BURIAL BOARDS (AMENDMENT) ACT. 1601

ment or control of such Boards, as well as to the Muhammadan Burial Board and Muhammadan burial-grounds.

1913. Act 1.

Repeal of the Second Schedule to Bengal Act IV. of 1880. 3. The Second Schedule to the Calcutta Burial Boards Act, 1889,* is hereby repealed.

BEN. ACT NO. II. OF 1913.

The Bengal Board of Revenue Act, 1913.

PUBLISHED IN THE CALCUTTA GAZETTE OF THE 23RD APRIL, 1913.

An Act to alter the constitution of the Board of Revenue for Bengal.

WHEREAS it is expedient to alter the constitution of the Board of Revenue for Bengal;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,† to the passing of this Act;

It is hereby enacted as follows:-

- Short title.

 1. This Act may be called the Bengal

 Board of Revenue Act, 1913.
- 2. The Board of Revenue for the Presidency of Fort William in

 Bengal shall be called the Board of Revenue
 for Bengal.
- 3. The said Board shall consist of one Member only, to be

 Number of Members of appointed by the Local Government by notification in the local official Gazette:

Provided that the Local Government may at any time, by like notification, with the previous sanction of the Government of India, appoint a temporary additional Member.

- 4. An additional Member of the Board of Revenue appointed

 Powers and duties of additional member.

 Board as the Local Government may direct.
 - 5. All references in any enactment, or in any notification,

 Construction of references order, scheme, rule, form or by-law issued,
 to former Boards made or prescribed under any enactment,
 to—
 - (a) the Board of Revenue as constituted under the Bengal Board of Revenue Regulation, 1822,‡ and under clause

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1918. Act 2.

First of section 4 of the Bengal Revenue Commissioners Regulation, 1829,* or

(b) the Board whose functions were transferred to the said Board of Revenue by the Bengal Board of Revenue Act, 1850,†

shall be construed as references to the Board as re-constituted by or under this Act.

- 6. (1) Any person considering himself aggrieved by any order

 Review of orders by of the Board of Revenue may apply to the

 Board. Board for a review of the same; and, if the

 Board considers there are sufficient reasons for so doing, it may

 review the order and pass such further order as it thinks fit.
- (2) Every application under sub-section (1) for a review of any order must be made within a period of three months from the date of the order:

Provided that the Board may, in its discretion, in any case extend such period, if sufficient reasons be shown for so doing.

7. The enactments specified in the Schedule are hereby repealed, to the extent mentioned in the fourth column thereof.

[•] Reg. I. of 1829.

[†] Act XLIV. of 1850.

THE SCHEDULE.

ENACTMENTS REPEALED.

1918. Act 2.

(See section 7.)

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I	2	3	4
Year.	No.	Short title.	Extent of repeal.
Bengal Regulation,			
1822	111.	The Bengal Board of Revenue Regulation, 1822.	So much as is unrepealed.
Acts of the Governor-General of India in Council.			
1850	XLIV.	The Bengal Board of Revenue Act, 1850.	So much as is unrepealed,
1874	xv.	The Laws Local Extent Act, 1874.	So much of the fourth Schedule as relates to Bengal Regulation III. of 1822 and Act XLIV. of 1850.
1891	XII,	The Amending Act, 1891.	So much of the second Schedule as relates to Bengal Regulation III. of 1822.
1903	1.	The Repealing and Amending Act, 1903.	So much of the second Schedule as relates to Bengal Regulation III; of 1822.

BEN. ACT NO. III. OF 1913.

The Bengal Public Demands Recovery Act, 1913.

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BEN, ACT NO. III. OF 1913.

The Bengal Public Demands Recovery Act, 1913.

PUBLISHED IN THE CALCUTTA GAZETTE OF THE 30TH APRIL, 1913.

An Act to consolidate and amend the law relating to the recovery of public demands in Bengal.

WHEREAS it is expedient to consolidate and amend the law relating to the recovery of public demands in Bengal;

And whereas the previous sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows:-

PART I.

PRELIMINARY.

Short title, commencement and extent.

- 1. (1) This Act may be called the Bengal Public Demands Recovery Act, 1913.
- (2) It shall come into force on such date as the Local Government may appoint by notification in the Calcutta Gazette: and
 - (3) It extends to the whole of Bengal.

Repeal.

- 2. The following enactments are hereby repealed, namely:—
- (a) the Public Demands Recovery Act, 1895,† and
- (b) the Bengal Public Demands Recovery (Amendment)
 Act, 1897.‡

Definitions.

- 3. In this Act, unless there is any thing repugnant in the subject or context,—
- (1) "certificate-debtor" means the person named as debtor in a certificate filed under this Act, and includes any person whose name is substituted or added as debtor by the Certificate-officer;
- (2) "certificate-holder" means the Secretary of State for India in Council or other person in whose favour a certificate has been filed under this Act, and includes any person whose name is substituted or added as creditor by the Certificate-officer;
- (3) "Certificate-officer" means a Collector, a Sub-divisional officer, and any officer appointed by a Collector, with

the sanction of the Commissioner, to perform the 1918 functions of a Certificate-officer under this Act:

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- (4) "moveable property" incudes growing crops;
- (5) "prescribed" means prescribed by rules;
- (6) "public demand" means any arrear or money mentioned or referred to in Schedule I., and includes any interest which may, by law, be chargeable thereon up to the date on which a certificate is signed under Part II.;
- (7) "rules" means rules and forms contained in Schedule II. or made under section 39.

PART II.

FILING. SERVICE AND EFFECT OF CERTIFICATES, AND HEARING OF OBJECTIONS THERETO.

- 4. When the Certificate-officer is satisfied that any public demand payable to the Collector is due, he Filing of certificate for may sign a certificate, in the prescribed public demand payable to Collector. form, stating that the demand is due, and shall cause the certificate to be filed in his office.
- 5. (1) When any public demand payable to any person other Requisition for certificate than the Collector is due, such person may send to the Certificate-officer a written rein other cases. quisition in the prescribed form.
- (2) Every such requisition shall be signed and verified in the prescribed manner, and, except in such cases as may be prescribed, shall be chargeable with a fee of the amount which would be payable under the Court-fees Act, 1870,* in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.
- 6. On receipt of any such requisition, the Certificate-officer, if Filing of certificate on re- he is satisfied that the demand is recoverable and that recovery by suit is not barred quisition. by law, may sign a certificate, in the prescribed form, stating that the demand is due; and shall include in the certificate the fee (if any) paid under section 5, sub-section (2); and shall cause the certificate to be filed in his office.
 - 7. When a certificate has been filed in the office of a Certificate-officer under section 4 or section 6, he Service of notice and copy of certificate on certishall cause to be served upon the certificateficate-debtor. debtor, in the prescribed manner, a notice in the prescribed form and a copy of the certificate.

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Non-service of notice does not affect the validity of the certificate itself.—11 C. W. N 745-34 C. 787.

The service of notice must be effected in strict conformity with the provisions of s. 31 of the Act (old Act).—5 C. L. J. 555.

If a notice under s. 10 of the Act (old Act) has not been duly served, the certificate is illegal and void and the sale based thereon is a nullity.—5 C L. J. 638.

When there was no certificate duly made and no notice under s. 10 served, the sale must be set aside, even though the purchaser is a third party -5 C. L. J. 687.

When no netice under s. 10 of the Act (old Act) was served a suit to set aside the sale is not barred under Art. 12 of the Limitation Act.—5 C. L. J. 687.

There must be strict proof of the service of notice under s. 10 of the Act (old Act) before a sale can be held to be valid —3 Ind. Cas. 81; 34 C. 811=5 C. L. J. 696—11 C. W. N 756 F. B. followed.

Service of notice under s. 10 of the Act (old Act) is essential for the validity of a sale held under the Act and such service of notice under s 10 must be effected in conformity with the provisions of s. 31 of the Act.—3 C. L. J. 280.

Effect of service of notice of certificate.

- 8. From and after the service of notice of any certificate under section 7 upon a certificate-debtor,—
- (a) any private transfer or delivery of any of his immoveable property situated in the district in which the certificate is filed, or of any interest in any such property, shall be void against any claim enforceable in execution of the certificate; and
- (b) the amount due from time to time in respect of the certificate shall be a charge upon the immoveable property of the certificate-debtor, wherever situated, to which every other charge created subsequently to the service of the said notice shall be postponed.
- 9. (1) The certificate-debtor may, within thirty days from the Filing of petition deny. service of the notice required by section 7, ing liability. or, where the notice has not been duly served, then within thirty days from the execution of any process for enforcing the certificate, present to the Certificate-officer in whose office the certificate is filed, or to the Certificate-officer who is executing the certificate, a petition, in the prescribed form, signed and verified in the prescribed manner, denying his liability. in whole or in part.
- (2) If any such petition is presented to a Certificate-officer other than the Certificate officer in whose office the original certificate is filed, it shall be sent to the latter officer for disposal.
- 10. The Certificate-officer in whose office the original certiHearing and determining ficate is filed shall hear the petition, take of such petition.

 evidence (if necessary), and determine whether the certificate-debtor is liable for the whole or any part of the amount for which the certificate was signed; and may set aside, modify or vary the certificate accordingly:

Provided that, if the Certificate officer is not the Collector, and considers that the petition involves a bond fide claim of right to property, he shall refer the petition to the Collector for orders; and the Collector, if he is satisfied that a bond fide claim of right to property is involved, shall make an order cancelling the certificate.

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PART III.

EXECUTION OF CERTIFICATE.

Who may execute certificate.

11. A certificate filed under section 4 or section 6 may be executed by—

- (a) the Certificate-officer in whose office the original certificate is filed, or
- (b) the Certificate-officer to whom a copy of the certificate is sent for execution under section 12, sub-section (1).
- 12. (1) A Certificate-officer in whose office a certificate is filed

 Transmission of certificate may send a copy thereof, for execution, to any other Certificate-officer in the same district or to the Collector of any other district.
- (2) When a copy of a certicate is sent to any such officer, he shall cause it to be filed in his office, and thereupon the provisions of section 8 with respect to certificates filed in the office of a Certificate-officer shall apply as if such copy were an original certificate:

Provided that it shall not be necessary to serve a second notice and copy under section 7.

NOTE.

A petition not drawn up according to the form given in the schedule to the Public Demands Recovery Act, but which contains the essential requisitions provided for in the form is a petition contemplated by s. 12 of the Act (old Act).—3 Ind. Cas. 81.

- 13. No step in execution of a certificate shall be taken until

 When certificate may be the period of thirty days has elapsed since executed. the date of the service of the notice required by section 7, or, when a petition has been duly filed under section 9, until such petition has been heard and determined:
- Provided that, if the Certificate-officer in whose office a certificate is filed is satisfied that the certificate-debtor is likely to conceal, remove or dispose of the whole or any part of such of his moveable property as would be liable to attachment in execution of a decree of a Civil Court, and that the realization of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, an attachment of the whole or any part of such moveable property.

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- 14. Subject to such conditions and limitations as may be prescribed, a Certificate-officer may order execution of a certificate—
 - (a) by attachment and sale, or by sale (without previous attachment), of any property, or
 - (b) by attachment of any decree, or
 - (c) by arresting the certificate-debtor and detaining him in the civil prison, or
 - (d) by any two or all of the methods mentioned in clauses
 (a), (b) and (c).
 - Explanation to clause (d).—Certificate-officer may, in his discretion, refuse execution at the same time against the person and property of the certificate-debtor.
- 15. Where a revenue-paying estate or any share therein is

 Certain sales by whom to liable to sale in execution of a certificate, such sale may be held either—
 - (a) by the Certificate-officer exercising jurisdiction in the district to the revenue-roll of which the estate or share appertains, or
 - ' (b) by the Certificate-officer exercising jurisdiction in the district in which such estate or share is situated.

Interest, costs and charges recoverable.

- 16. There shall be recoverable, in the proceedings in execution of every certificate filed under this Act,—
- (a) interest upon the public demand to which the certificate relates, at the rate of six and a quarter per centum per annum, from the date of the signing of the certificate up to the date of realization,
- (b) such costs as are directed to be paid under section 45, and
- (c) all charges incurred in respect of-
 - (i) the service of notice under section 7, and of warrants and other processes, and
 - (ii) all other proceedings taken for realizing the demand.

Attachment.

- 17. Property liable to attachment and sale in execution of a decree of a Civil Court may be attached and sold in execution of a certificate under this Act.
- 18. Where an attachment has been made in execution of a Psyment of moneys, concertificate, any payment to the certificate-trary to attachment, to be debtor of any debt, dividend or other moneys, contrary to such attachment, shall be void as against all claims enforceable under the attachment.

19. (1) The attachment of a Civil Court decree for the pay- 11918. ment of money or for sale in enforcement of Attachment of decree. a mortgage or charge shall be made by the issue to the Civil Court of a notice requesting the Civil Court to stay the execution of the decree unless and until—

- (i) the Certificate-officer cancels the notice, or
- (ii) the certificate-holder or the certificate-debtor applies to the Court receiving such notice to execute the
- (2) Where a Civil Court receives an application under clause (ii), of sub-section (1), it shall, on the application of the certificateholder or the certificate-debtor, and subject to the provisions of the Code of Civil Procedure, 1908,* proceed to execute the attached decree and apply the net proceeds in satisfaction of the certificate.
- (3) The certificate-holder shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

Sale.

- 20. (1) Where property is sold in execution of a certificate, there shall vest in the purchaser merely the Purchaser's title. right, title and interest of the certificatedebtor at the time of the sale, even though the property itself be specified.
- (2) Where immoveable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.
- (3) Notwithstanding anything contained in sub-section (1), in areas in which Chapter XIV. of the Bengal Tenancy Act, 1885, is in force, where a tenure or holding is sold in execution of a certificate for arrears of rent due in respect thereof, the tenure or holding shall, subject to the provisions of section 22 of that Act, pass to the purchaser, subject to the interests defined in that Chapter as "protected interests," but with power to annul the interests defined in that Chaper as "incumbrances:"

~ Provided as follows:-

- (i) a registered and notified incumbrance within the meaning of that Chapter shall not be so annulled except in the case prescribed; and
- (ii) the power to annul shall be exercisible only in the manner prescribed.

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- (4) Where the certificate-holder is a co-sharer landlord and the certificate is for his share of the rent only, the provisions of sub-section (3) shall not apply.
- Suit against purchaser rot maintainable on ground of purchase being on behalf of plaintiff.

 Suit against purchaser claiming title under a purchase certified by the Certificate-officer in such manner as may be prescribed, on the ground that the purchase was made on behalf of the plaintiff or on behalf of some-one through whom the plaintiff claims.
- (2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

Setting aside sale.

- Application to set aside sale of immoveable property has been sold in execution of a certificate, the certificate-debtor, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Certificate-officer to set aside the sale, on his depositing—
 - (a) for payment to the certificate holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest
 thereon at the rate of twelve and a half per centum
 per annum, calculated from the date of the certificate
 to the date when the deposit is made;
 - (b) for payment to the purchaser, as penalty, a sum equal to five per cent. of the purchase-money, but not less than one, rupee; and
 - (c) for payment to the Collector (where the certificate is for a public demand payable to the Collector), such outstanding charges due to the Government under any law for the time being in force as the Collector certifies to be payable by the certificate debtor.
- (2) Where a person makes an application under section 23 for setting aside the sale of his immoveable property, he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this section.
- 23. (1) Where immoveable property has been sold in execution of a certificate, the certificate-holder, the certificate debtor, or any person whose interests are affected by the sale, may, at any time within sixty days from the date

of the sale, apply to the Certificate-officer to set aside the sale on the ground that notice was not served under section 7 or on the ground of a material irregularity in the certificate proceedings or in publishing or conducting the sale:

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Provided as follows:-

- (a) no sale shall be set aside on any such ground unless the certificate-officer is satisfied that the applicant has sustained substantial injury by reason of the non-service or irregularity; and
- (b) an application made by a certificate debtor under this section shall be disallowed unless the applicant either deposits the amount recoverable from him in execution of the certificate or satisfies the Certificate-officer that he is not liable to pay such amount.
- (2) Notwithstanding anything contained in sub-section (1), the Certificate-officer may entertain an application made after the expiry of sixty days from the date of the sale if he is satisfied that there are reasonable grounds for so doing.
- Application to set aside sale on ground that certificate debtor had no saleable interest or that property did not exist.

 Application to set aside execution of a certificate may, at any time within sixty days from the date of the sale, apply to the Certificate-officer to set aside the sale on the ground that the certificate-debtor had no saleable interest in the property sold, or that the property did not exist at the time of the sale.
- 25. (1) Where no application is made under section 22, sec-Sale when to become abtion 23 or section 24, or where such an solute or be set aside. application is made and disallowed, the Certificate-officer shall make an order confirming the sale, and thereupon the sale shall become absolute.
- (2) Where such an application is made and allowed, and where, in the case of an application under section 22, the deposit required by that section is made within thirty days from the date of the sale, the Certificate-officer shall make an order setting aside the sale:
- Provided that no order shall be made unless notice of the application has been given to all persons affected thereby.

Disposal of proceeds of execution.

- 26. (1) Whenever assets are realized, by sale or otherwise, Disposal of proceeds of in execution of a certificate, they shall be execution. disposed of in the following manner:—
 - (a) there shall first be paid to the certificate-holder the costs incurred by him;

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- (b) there shall, in the next place, be paid to the certificateholder the amount due to him under the certificate in execution of which the assets were realized;
- (e) if there remains a balance after these sums have been paid, there shall be paid to the certificate-holder therefrom any other amount recoverable under the procedure provided by this Act which may be due to him upon the date upon which the assets were realized; and
- (d) the balance (if any) remaining after the payment of the amount (if any) referred to in clause (c) shall be paid to the certificate-debtor.
- (2) If the certificate-debtor disputes any claim made by the certificate-holder to receive any amount referred to in clause (c), the Certificate-officer shall determine the dispute.

Resistance to purchaser after sale.

- 27. (r) If the purchaser of any immoveable property sold in Application by purchaser resisted or obstructed in obtaining possession of immoveable property.

 27. (r) If the purchaser of any immoveable property sold in execution of a certificate is resisted or obstructed by any person in obtaining possession of the property, he may apply to the Certificate-officer.
- (2) The Certificate-officer shall fix a day for investigating the matter, and shall summon the party against whom the application is made to appear and answer the same.
- 28. (1) If the Certificate-officer is satisfied that the resistance Procedure on such applior or obstruction was occasioned without any just cause by the certificate-debtor or by some person on his behalf, he shall direct that the applicant be put into possession of the property; and, if the applicant is still resisted or obstructed in obtaining possession, the Certificate-officer may also, at the instance of the applicant, order the certificate-debtor or such other person to be detained in the civil prison for a term which may extend to thirty days.
- (2) If the Certificate-officer is satisfied that the resistance or obstruction was occasioned by any person (other than the certificate-debtor) claiming in good faith to be in possession of the property on his own account or on account of some person other than the certificate-debtor, the Certificate-officer shall make an order dismissing the application,

Arrest, Detention and Release.

29. A certificate-debtor may be arrested in execution of a Power of arrest and deten. certificate at any hour and on any day, tion. except as provided in section 47, and, when so arrested, shall, as soon as practicable, be brought before the Certificate-officer; and his detention may be in the civil prison of

the district in which the Certificate-officer ordering the detention exercises jurisdiction, or, where such civil prison does not afford suitable accommodation, in any other place which the Local Government may appoint for the detention of persons ordered by the Civil Courts of such district to be detained:

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Provided that, if the certificate-debtor pays the amount entered in the warrant of arrest as due under the certificate, and the costs of the arrest, to the officer arresting him, such officer shall at once release him.

- 30. (1) The Collector may order the release of a certificateRelease from arrest and debtor who has been arrested in execution
 rearrest. of a certificate, upon being satisfied that he
 has disclosed the whole of his property and has placed it at the
 disposal of the Certificate-officer and that he has not committed
 any act of bad faith.
- (2) If the Certificate-officer has ground for believing the disclosure made by a certificate-debtor under sub-section (1) to have been untrue, he may order the rearrest of the certificate-debtor in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by section 31, sub-section (1).

Detention in, and release from, prison.

- 31. (1) Every person detained in the civil prison in execution of a certificate may be so detained,—
- (a) where the certificate is for a demand of an amount exceeding fifty rupees—for a period of six months, and
- (b) in any other case—for a period of six weeks:

Provided that he shall be released from such detention-

- (i) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the civil prison, or
- (ii) on the certificate being otherwise fully satisfied or cancelled, or
- (iii) on the request of the person (if any) on whose requisition the certificate was filed, or of the Collector, or
- (iv) on the omission by the person (if any) on whose requisition the certificate was filed to pay the subsistence allowance fixed by the Certificate-officer:

Provided, also, that he shall not be released from such detention under clause (ii) or clause (iii) without the order of the Certificate-officer.

(2) A certificate-debtor released from detention under this section shall not, merely by reason of his release, be discharged from his debt; but he shall not be liable to be rearrested under the certificate in execution of which he was detained in the civil prison.

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 Release on ground of ficate-debtor has been issued, the Certificate officer may cancel it on the ground of his serious illness.
 - (2) Where a certificate-debtor has been arrested, the Certificate-officer may release him if, in the opinion of the Certificate-officer, he is not in a fit state of health to be detained in the civil prison.
 - (3) Where a certificate-debtor has been committed to the civil prison, he may be released therefrom—
 - (a) by the Collector, on the ground of the existence of any infectious or contagious disease, or
 - (b) by the Certificate officer, or the Collector, on the ground of his suffering from any serious illness.
 - (4) A certificate-debtor released under this section may be rearrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorized by section 31, subsection (1).

Prohibition of airest or detention of women and persons under disability.

33. Notwithstanding anything in this Act, the Certificate-officer shall not order the airest or detention in the civil prison of—

- (a) a woman, or
- (b) any person who, in his opinion, is a minor or of unsound mind.

PART IV.

REFERENCE TO CIVIL COURT.

Suit in Civil Court to bave certificate cancelled or modified.

34. The certificate-debtor may, at any time within six months—

- (1) from the service upon him of the notice required by section 7, or
- (2) if he files, in accordance with section 9, a petition denying liability—from the date of the determination of the petition, or
- (3) if he appeals, in accordance with section 51, from an order passed under section 10—from the date of the decision of such appeal,

being a suit in a Civil Court to have the certificate cancelled or modified, and for any further consequential relief to which he may be entitled:

Provided that no such suit shall be entertained—

(a) in any case, if the certificate-debtor has omitted to file, in accordance with section 9, a petition denying

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liability, or to state in his petition denying liability the ground upon which he claims to have the certificate cancelled or modified, and cannot satisfy the Court that there was good reason for the omission, or

- (b) in the case of a certificate for a demand mentioned in Article 1 or Article 2 of Schedule I, if the certificate-debtor has not paid the amount due under the certificate to the Certificate-officer—
 - (i) within thirty days from the service of the notice required by section 7, or
 - (ii) if he has filed, in accordance with section 9, a petition denying liability-then within thirty days from the date of the determination of the petition, or
 - (iii) it he has appealed in accordance with section 51then within thirty days from the decision of the appeal:

Provided also that no sale in execution of a certificate shall be set aside in such a suit unless the purchaser has been made a party to the suit and until a direction is made for the refund of the amount of the purchase money, with such interest (if any) as the Court may allow.

Grounds for cancellation by Civil Court.

35. (1) No certificate duly filed under or modification of certificate this Act shall be cancelled by a Civil Court, except on one of the following grounds, namely:-

- (a) that the amount stated in the certificate was actually paid or discharged before the signing of the certificate;
- (b) that no part of the amount stated in the certificate was due by the certificate-debtor to the certificate-holder;
- (c) that, in the case of fines imposed, or costs, charges, expenses, damages, duties or fees adjudged, by a Collector or a public officer under any law or any rule having the force of law, the proceedings of such Collector or public officer were not in substantial conformity with the provisions of such law or rule, and that in consequence the certificate-debtor suffered substantial injury from some error, defect or irregularity in such proceedings.
- (2) No certificate duly filed under this Act shall be modified by a Civil Court except on one of the following grounds, namely:—
 - (s) that a portion of the alleged debt was not due; or
 - (ii) that the certificate-debtor has not received credit for any portion which he has paid.
- (3) Nothing contained in this section shall interfere with the ordinary original jurisdiction of the High Court at Fort William in

1918 Bengal, or with the jurisdiction of the Calcutta Court of small Act a

Suit to recover possession of, or to set aside sale of, immoveable property in execution of a certificate shall not be held to be void on the ground that the notice required by section 7 has not been served; but a suit may be brought in a Civil Court to recover

possession of such property or to set aside such sale on the ground that such notice has not been served and that the plaintiff has sustained substantial injury by reason of the irregularity:

Provided that no such suit shall be entertained—

- (a) if instituted more than one year from the date on which possession of the property was delivered to the purchaser, or
 - (b) if the certificate-debtor has made appearance in the certificate proceeding, or has applied to the Certificate-officer under section 22 or section 23 to set aside the sale.
- General bar to jurisdiction of Civil Courts, save holder and the certificate-debtor, or their representatives, relating to the making, execution, discharge or satisfaction of alcertificate duly filed under this Act, or relating to the confirmation or setting aside by an order under this Act of a sale held in execution of such certificate, shall be determined, not by suit, but by order of the Certificate-officer before whom such question arises, or of such other Certificate-officer as he may determine:

Provided that a suit may be brought in a Civil Court in respect of any such question upon the ground of fraud.

PART V.

RULES.

- Bffect of rules in Schedule II. shall have effect as if enacted in the body of this Act, until altered or annulled in accordance with the provisions of this Part.
- 39. (1) The Board of Revenue may, after previous publicapower of Board of Reve. tion and with the previous sanction of the
 nue to make rules as to
 Local Government, make rules regulating
 the procedure to be followed by persons
 making requisitions under section 5 and by Collectors and Certificate-officers acting under this Act; and may, by such rules, alter,
 add to or annul any of the rules in Schedule II.

(2) Such rules shall not be inconsistent with the provisions in the body of this Act, but, subject thereto, may, in particular, and without prejudice to the generality of the power conferred by sub-section (1), provide for all or any of the following matters, namely:—

- (a) the signature and verification of requisitions made under section 5;
- (b) the Certificate-officers to whom such requisitions should be addressed;
- (c) the cases in which such requisitions shall not be chargeable with a fee;
- (d) the service of notices issued under section 7, the service of other notices or processes issued under this Act, and the manner in which service may be proved;
- (e) the signing and verification of petitions, under section 9, denying liability;
- (f) the transfer of such petitions to other officers for disposal;
- (g) the scale of charges to be recovered under section 16, clause (c);
- (h) the maintenance and custody, while under attachment, of live-stock and other moveable property, the fees to be charged for such maintenance and custody, the sale of such live-stock and property, and the disposal of the proceeds of such sale;
- (i) the registers, books and accounts to be kept by Certificate-officers, and the inspection thereof by the public;
- (j) the fee to be charged for the inspection of the register of certificates maintained under rule 59 in Schedule II.:
- (b) the recovery of expenditure on the certificate establishment by levy of costs under section 16, clause (b), and section 45;
- (1) the recovery of poundage fees;
- (m) the forms to be used under this Act.
- 40. (1) Rules made and sanctioned under section 39 shall be Rublication and effect of published in the Calcutta Gasette, and shall, rules made under section 39. from the date of publication or from such other date as may be specified, have the same force and effect as if they had been contained in Schedule II.
- (2) All references in this Act to the said Schedule II. shall be construed as referring to that Schedule as for the time being amended by such rules.

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PART VI.

SUPPLEMENTAL PROVISIONS. Act 8.

- 41. Where the Certificate-officer is satisfied that the certificatedebtor is a minor or of unsound mind, he Persons under disability. shall, in any proceeding under this Act, permit him to be represented by any suitable person.
- 42. No certificate shall cease to be in Continuance of certificates. force by the reason of-
 - (a) the property to which the demand relates ceasing to be under the charge or management of the Court of Wards or the Revenue-authorities; or
 - (b) the death of the certificate-holder.
- 43. Where a certificate-debtor dies before the certificate has Procedure on death of been fully satisfied, the Certificate-officer. may, after serving upon the legal represencertificate-debtor. tative of the deceased a notice in the prescribed form proceed to execute the certificate against such legal representative; and the provisions of this Act shall apply as if such legal representative were the certificate-debtor and as if such notice were a notice under section 7:

Provided that where the certificate is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability, the Certificate-officer executing the certificate may, of his own motion or on the application of the certificate-holder, compel such legal representative to produce such accounts as the Certificate-officer thinks fit.

- **44**. (1) The Certificate-officer shall Cancellation of certicancel any certificate at the request of the ficates. certificate-holder.
- (2) The Certificate-officer may cancel any certificate filed under section 6 if the certificate holder is not reasonably diligent.
- 45. Subject to such limitation as may be prescribed, the award of any costs of and incidental to any pro-Costs. ceeding under this Act shall be in the discretion of the officer presiding, and he shall have full power to direct by whom and to what extent such costs shall be paid.
- 46. If the Certificate-officer is satisfied that any requisition under section 5 was made without reason-Compensation. able cause, he may award to the certificate. debtor such compensation as the Certificate-officer thinks fit:

and the amount so awarded shall be recoverable from the certificate-holder under the procedure provided by this Act for recovery of costs.

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- 47. (1) No person executing any warrant of arrest issued Entry into dwelling under this Act, or any process issued under this Act directing or authorising the attachment of moveable property, shall enter any dwelling house after sunset or before sunrise.
- (2) No out r door of a dwelling-house shall be broken open unless the dwelling-house or a pertion thereof is in the occupancy of the certificate-debtor and he or any other occupant of the house refuses or in any way prevents access thereto; but, when the person executing any such warrant or other process has duly gained access to any dwelling-house, he may break open the door of any room and enter, if he has reason to believe that entering into the room is necessary in order to enable him to execute the process.
- (3) Where a room in a dwelling-house is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public the person executing the process shall give notice to her that she is at liberty to withdraw; and, after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, he may enter such room for the purpose of executing the process; and, if the process be for the attachment of property, he may at the same time use every precaution, consistent with this section, to prevent its clandestine removal.
- 48. Every Collector, Certificate-officer, Assistant Collector or Application of Act XVIII. Deputy Collector acting under this Act, and of 1850.

 every Government officer making a requisition under section 5, shall, in the discharge of his functions under this Act, be ideemed to be acting judicially within the meaning of the Judicial Officers' Protection Act, 1850.**
- 49. Every Collector, Certificate officer, Assistant Collector or

 Officers to have powers
 of Civil Court for certain have the powers of a Civil Court for the
 purposes.
 purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling
 the production of documents.
- 50. All Certificate-officers (not being Collectors), Assistant Control over officers.

 Control over officers.

 Collectors and Deputy Collectors, shall, in the performance of their duties under this Act, be subject to the general supervision and control of the Collector.

Appeal. . 51. (1) An appeal from any original order made under this Act shall lie—

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- (a) if the order was made by an Assistant Collector or a Deputy Collector, or by a Certificate-officer not being the Collector,—to the Collector, or
- (b) if the order was made by the Collector,—to the Commissioner;

Provided that no appeal shall lie from any order made under section 22.

- (2) Every such appeal must be presented, in case (a), within fifteen days, or, in case (b), within thirty days, from the date of the order.
- (3) The Collector may, by order, with the previous sanction of the Commissioner, authorize—
 - (i) any Sub-divisional Officer, or
 - (ii) any officer appointed under clause (3) of section 3 to perform the functions of a Certificate-officer,

to exercise the appellate powers of the Collector under sub-section (1).

- (4) When any officer has been so authorized, the Collector may transfer to him for hearing any appeal referred to in clause (a) of sub-section (1), unless the order appealed against was made by such officer.
- (5) Pending the decision of any appeal, execution may be stayed if the appellate authority so directs, but not otherwise.
 - 52. No appeal shall lie from any order of a Collector, or an officer authorized under section 51, sub-section (3), when passed on appeal.
- 53. The Collector may revise any order passed by a Certificateofficer, Assistant Collector or Deputy Collector under this Act;

the Commissioner may revise any order passed by a Collector under this Act;

and the Board of Revenue may revise any order passed by a Commissioner under this Act.

- 54. Any order passed under this Act may, after notice to all persons interested, be reviewed by the officer who made the order, or by his successor in office, on account of mistake or error either in the making of the certificate or in the course of any proceeding under this Act.
- 55. The powers given by this Act shall be deemed to be in addition to, and not in derogation from, any powers conferred by any other Act now in force for the recovery of any due, debt or demand to which the provisions of this Act are applicable; and, except where expressly so provided, no legal remedy shall be affected by this Act.

56. (1) Sections 6 to 9 of the Indian Limitation Act, 1908, shall
Application of the Indian not apply to suits, appeals or applications under this Act.

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- (2) Except as declared in sub-section (1), the provisions of the Indian Limitation Act, 1908,* shall apply to all proceedings under this Act as if a certificate filed hereunder were a decree of a Civil Court.
- 57. A Certificate-officer shall be deemed to be a Court, and any

 Certificate-officer deemed proceeding before him shall be deemed to be to be a Court.

 *a civil proceeding within the meaning of section 14 of the Indian Limitation Act, 1908.**
- 58. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein, from being taken in execution of a certificate, shall be deemed to have committed an offence punishable under section 206 of the Indian Penal Code.†
- 59. (1) Any Certificate-officer may, by written order, authorize
 Signature of documents any ministerial officer to sign, on behalf of
 by ministerial officers. the Certificate-officer, any copy, issued by
 the Certificate-officer under this Act, of any document referred to
 therein.
- (2) The Local Government may, by notification in the Calcutta Gazette, empower Certificate-officers to authorize ministerial officers, by written order, to sign on behalf of Certificate-officers any classes of original notices, summonses or proclamations issued by Certificate-officers under this Act which are specified in such notification.

Amendment of Chapter XIIIA. of the Bengal Tenancy Aet, 1885.

60. For Chapter XIIIA. of the Bengal Tenancy Act, 1885,‡ the following shall be substituted, namely:—

"CHAPTER XIIIA.

- "SUMMARY PROCEDURE FOR THE RECOVERY OF RENTS UNDER THE BENGAL PUBLIC DEMANDS RECOVERY ACT, 1913.
- Recovery of arrears of rent land is situate in an area for which a record-of-rights has been prepared and finally published, and in which such record is maintained,

may apply to the Local Government, through the Collector of the district in which his land is situate, for the application of the procedure prescribed by the Bengal Public Demands Recovery Act, 1913, to the recovery of the arrears of rent which he alleges are, or may accrue, due to him for lands in such area.

Act IX. of 1908.

1918.

- (2) The Local Government may reject any such application, or may allow it subject to such terms and conditions as it may see fit to impose, and may at any time add to or vary any terms or conditions so imposed, or withdraw its allowance of the application, without, in any of these cases, assigning any reason for its action.
- (3) When any such application has been allowed, the landlord may make a requisition in writing, in the form prescribed,

to such Revenue-officer as the Local Government may, appoint, for the purpose of this section, to perform the functions of a Certificate-officer under the Bengal Public Demands Recovery Act, 1913,

for the recovery of any arrears of rent which he alleges are due to him from any tenant.

- (4) Every such requisition shall be signed and verified by the landlord making it, in the manner prescribed by rule 1 in Schedule II. to the said Act, as amended for the time being by rules made under section 39 thereof, and shall be chargeable with a fee of the amount which would be payable under the Court-fees Act, 1870,* in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.
- (5) On receipt of any such requisition, the said Revenue-officer may, in accordance with such rules as the Local Government may prescribe in this behalf, and if he is satisfied that the arrear is due, sign a certificate, in the prescribed form, stating that the arrear is due; and shall include in the certificate the fee paid under subsection (4), and shall cause the certificate to be filed in his office:

Provided that-

- (a) no certificate shall be signed for the recovery of arrears of rent of a tenancy regarding which a suit has been instituted in a Civil Court for the alteration of the rent payable by the tenant or the determination of his status as a tenant, in respect of the period during which it is alleged in the requisition made under sub-section (3) that the arrears of rent sought to be recovered have accrued; and
- (b) if, after the signing of a certificate, it is found that such a suit was instituted in a Civil Court before the certificate was signed, such certificate shall be cancelled.
- (6) The person in whose favour any certificate is signed, under sub-section (5) shall be deemed to be the certificate holder for the amount mentioned in the certificate, and the person against whom the certificate is signed shall be deemed to be the certificate-debtor for the said amount; and all proceedings taken by the Certificate-officer for the recovery of such amount shall be taken at the

instance of the first-mentioned person, and at his cost and responsibility, and not otherwise.

1913. Act 3.

- (7) The Bengal Public Demands Recovery Act, 1913, with such restrictions and modifications (if any) as may be prescribed, shall apply to the execution, and to all proceedings arising out of the execution, of certificates filed under sub-section (5).
- (8) No landlord shall, during the pendency of any proceedings under this section, institute a suit in a Civil Court for the recovery of any arrears of rent in respect of which he has made a requisition under sub-section (3);

and, subject to the provisions of section 34 of the Bengal Public Demands Recovery Act, 1913, no tenant shall, after the signing of any certificate against him under sub-section (5) of this section, institute a suit in, or apply to, a Civil Court for the alteration of the rent payable by him, or the determination of his status as a tenant, in respect of the period during which the arrears of rent for which such certificate was signed have accrued.

(9) The word "landlord" in this section includes an entire body of landlords, and also one or more co-sharer landlords who collects or collect his or their share or shares of the rent separately; and, where a Revenue-officer signs a certificate on the requisition of one or more such co-sharer landlords, he shall at the same time issue to each of the remaining co-sharer landlords a copy of such certificate."

Amendment of section 158B (1) of the Bengal of the Bengal Tenancy Act, 1885, the following shall be substituted, namely:—

Passing of tenure or holding sold in execution of decree or certificate.

"(1) Where a tenure or holding is sold in execution of—

- (a) a decree for arrears of rent due in respect thereof, or
- (b) a decree for damages under section 186A, or
- (c) a certificate for arrears of rent signed under the Bengal Public Demands, Recovery Act, 1913,

the tenure or holding shall, subject to the provisions of section 22, pass to the purchaser,

if such decree was obtained by-

- (i) a sole landlord, or
- (ii) the entire body of landlords, or
- (iii) one or more co-sharer landlords who has, or have, sued for the rent due to all the co-sharers in respect

1013. Act 3.

of the entire tenure or holding and made all the remaining co-sharers parties defendant to the suit, or

- if such certificate was signed on the requisition of, or in favour of, a sole landlord or the entire body of landlords."
- 62. (1) In sub-section (1) of section 167 of the Bengal Tenancy
 Amendment of section 167
 of the Bengal Tenancy Act, 1885,* after the words "the foregoing sections" the words "or under the Bengal Public Demands Recovery Act, 1913," shall be inserted.
 - (2) In sub-section (4) of the said section,—
 - (a) after the words "a decree" the words "or a certificate signed under the Bengal Public Demands Recovery Act, 1913," shall be inserted, and
 - (b) after the words "this Chapter" the words "or that Act" shall be inserted.
- 63. In sub-section (1) of section 171 of the Bengal Tenancy
 Amendment of section 171 Act, 1885,* after the words "under this
 (1) of the Bengal Tenancy Chapter" the following shall be inserted,
 namely:—
 - "or in execution of a certificate for arrears of rent due in respect thereof, signed under the Bengal Public Demands Recovery Act, 1913."
- Amendment of section 172 of the Bengal Tenancy Act, 1885,* for the Amendment of section 172 words "When a tenure or holding is adverof the Bengal Tenancy Act, tised for sale under this Chapter in execution of a decree against a superior tenant defaulting" the following shall be substituted, namely:—
 - "When a tenure or holding is advertised for sale-
 - (a) under this Chapter, in execution of a decree against a superior tenant defaulting, or
 - (b) in execution of a certificate, signed under the Bengal Public Demands Recovery Act, 1913, for arrears of rent due in respect of the tenure or holding from a superior tenant defaulting."

^{*} Act VIII. of 1885.

SCHEDULE 1.

PUBLIC DEMANDS.

1918. Act 8

[See sections 3 (6) and 34 (b).]

1. Any arrear of revenue which remains due in the following circumstances, namely:—

when, under the provisions of the Bengal Land-revenue Sales Act, 1859,* or the Bengal Land-revenue Sales Act, 1868,† or any other law for the time being in force, an estate or tenure, or any share of an estate or tenure, has been sold for the recovery of arrears of revenue due thereupon, and, after deducting the expenses of such sale, the balance of the sale-proceeds remaining is insufficient to liquidate the arrears of revenue in discharge of which such sale-proceeds may, under the said provisions, be applied.

- 2. Any arrear of revenue which is due from a farmer on account of an estate held by him in farm, and is not paid on the latest day of payment fixed under section 3 of the said Bengal Land-revenue Sales Act, 1859.*
- 3. Any money which is declared by any law for the time being in force to be recoverable or realizable as an arrear of revenue or land-revenue, or by the process authorized for the recovery of arrears of revenue or of the public revenue or of Government revenue.
- 4. Any money which is declared by any enactment for the time being in force—
 - (i) to be a demand or a public demand, or
 - (ii) to be recoverable as arrears of a demand or public demand, or as a demand or public demand, or
- (iii) to be recoverable under the Bengal Land-revenue Sales Act, 1868.†
 5. Any money due from the sureties of a farmer in respect of the revenue of the estate farmed by him.
- 6. Any money awarded as fees or costs by a Revenue-authority under any law or any rule having the force of law.
- 7. Any demand payable to the Collector by a person holding any interest in land, pasturage, forest-rights, fisheries or the like, whether such interest is or is not transferable, when such demand is a condition of the use and erjoyment of such land, pasturage, forest-rights, fisheries or other thing:
- 8. In the case of property which under the provisions of any law for the time being in force, is under the charge of, or is managed by, the Court of Wards or the Revenue-authorities on behalf of a private individual—any arrear of rent, or of any demand which is recoverable as rent, whether such arrear became due before or after the management devolved upon such Court or such Authorities.
- 9. Any money payable to a Government Officer or any local authority, in respect of which the person liable to pay the same has agreed, by a written instrument duly registered, that it shall be recoverable as a public demand.
- 10. Any stamp duty payable by a proprietor in respect of a paper of partition prepared under the Estates Partition Act, 1897.‡
- 11. In the case of a person to whom the collection of tolls has been farmed under section 8 of the Canals Act, 1864, for of the sureties of such person—any money due in respect of such farm.
- 12. Any money awarded as compensation under section 2 of the Bengal Land-revenue Sales Act, 1868.†
- 13. Any money due from a purchaser at a sale held in execution of a certificate under this Act, whether the sale is subsisting or not.

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SCHEDULE II.

Rules.

(See section 38.)

SIGNATURE AND VERIFICATION OF REQUISITIONS FOR CERTIFICATES.

Signature and verification of requisition for certificate.

1. (1) Every requisition made under section 5 shall be signed and verified at the foot by the person making it.

- (a) The verification shall state that the person signing the requisition has been satisfied by inquiry that the amount stated in the requisition is actually due.
- (3) The verification shall be signed by the person making it, and shall state the date on which it is signed.

SERVICE OF NOTICES.

- 2. Service of a notice issued under section 7, or under any other prevision of this Act, shall be made by de livering or tendering a copy thereof, signed by the Certificate-officer or such ministerial officer as he authorizes in this behalf, and sealed with the seal of the Certificate-officer.
- Service on certificate-debtor in person, unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient.
- 4. Where the certificate-debtor cannot be found, and has no agent empowered Service on adult male member to accept service of the notice on his behalf, service may be made on any adult male member of the family of the certificate-debtor who is residing with him.

Explanation.—A servant is not a member of the family within the meaning of this rule.

- Where the serving officer delivers or tenders a copy of the notice to the Person served to sign acknow. Certificate-debtor person ally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original notice.
- 6. Where the certificate-debtor or his agent, or such other person as aforesaid,
 Procedure where certificatedebtor refuses to accept service or cannot be found,
 diligence, cannot find the certificate-debtor, and there
 is no agent empowered to accept service of the notice on his behalf, nor any other
 person on whom service can be made, the serving efficer shall—
 - (a) affix a copy of the notice on the outer door or some other conspicuous part of the house in which the certificate-debtor ordinarily resides or carries on business or personally works for gain, cr
 - (b) if there be land affected by the notice, affix a copy of the notice on some conspicuous place in the office of the Certificate-officer and also on some conspicuous part of lard,

and shall then return the original to the Certificate-officer by whom it was issued, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house or land was identified and in whose presence the copy was affixed.

7. The serving officer shall, in all cases in which the notice has been served under rule 5, endorse or annex, or cause to be endorsed or annex of service.

or annexed, on or to the original notice, a return stating the time when and the manner in which the notice was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the notice.

1913. Act 8

8. Where a notice is returned under rule 6, the Certificate-officer shall, if

Examination of serving offither return under that rule has not been verified by
the affidavit of the serving officer, and may, if it has
been so verified, examine the serving officer on oath, or cause him to be so
examined by another Certificate-officer, or, subject to any general order of the
Collector, by an Assistant Collector, Deputy Collector or Sub-Deputy Collector,
touching his proceedings, and may make such further inquiry in the matter as
he thinks fit; and shall either declare that the notice has been duly served or
order such service as he thinks fit.

Service by post.

9. Notwithstanding anything hereinbefore contained, the notice may, if the Certificate-officer so directs, be served by post.

PETITIONS UNDER SECTION 9, DENYING LIABILITY.

- 10. (1) Every petition filed under section 9, denying liability, shall be signed

 Signature and verification of and verified at the foot by the certificate-debtor or by
 petition denying liability. some other person on his behalf who is proved to the
 satisfaction of the Certificate-officer to be acquainted with the facts of the case.
- (2) The verification shall be signed by the person making it, and shall state the date on which it is signed.
- 11. (1) The Certificate-officer may, subject to any general or special order of the Collector, transfer to any Assistant Collector or Deputy Collector subordinate to the Collector any petition filed under section 9; and such Assistant Collector or Deputy Collector shall hear and determine such petition accordingly:

Provided that the Collector may re-transfer any petition so transferred, and order that it be heard and determined by the Certificate-officer.

(2) The provisions of section 10 shall be applicable to any Assistant Collector or Deputy Collector to whom any such petition has been transferred under sub-rule (1).

EXECUTION OF CERTIFICATES.

12. Where a copy of a certificate is sent for execution to the Collector of another district under section 12, sub-section (1), the certificate may be executed by him or may be transferred by him to any Certificate-officer in his district.

ATTACHMENT OF MOVEABLE PROPERTY, ETC.

Application for attachment of moveable property in the possession of the certificate-debtor, the moveable property in the possession of the certificate-debtor, the certificate-debtor.

declared to be above Rs. 20 in value. If the property is above or below Rs. 20 in value. If the property is invalue, the certificate-holder shall pay the costs of issuing the proclamation of sale. If, however, the value of the property, having been declared to be Rs. 20 or under should be found, as determined by rule 14, to exceed Rs, 20, the certificate-holder shall pay the costs of issuing the proclamation of sale immediately on receipt of notice of attachment.

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- Procedure for the attachment of moveable property when its that it will be sold by public auction at once without the issue of any proclamation. In case the certificate-holder or the certificate-holde
- Attachment of moveable property (other than agricultural produce) in possession of certificate-debtor.

 Attachment of moveable property (other than agricultural produce) in the possession of the certificate-debtor, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof:

Provided that, when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once.

- 16. Where the property to be attached is agricultural produce, the attachment of agricultural ment shall be made by affixing a copy of the warrant produce.
 - (a) where such produce is growing crop—on the land on which such crop has grown, or
 - (b) where such produce has been cut or gathered—on the threshing floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited,

and another copy on the outer door or on some other conspicuous part of the house in which the certificate-debtor ordinarily resides, or with the leave of the Certificate officer, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain, or in which he is known to have last resided or carried on business or personally worked for gain:

and the produce shall thereupon be deemed to have passed into the possession of the Certificate-officer.

- 17. (1) Where agricultural produce is attached, the Certificate-officer, shall Provisions as to agricultural make such arrangements for the custody thereof as produce under attachment. he may deem sufficient, and, when the produce is a growing crop, shall have regard to the time at which it is likely to be fit to be cut or gathered.
- (a) Subject to such conditions as may be imposed by the Certificate-officer in this behalf, either in the order of attachment or in any subsequent order, the certificate-debtor may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it; and, if the certificate-debtor fails to do all or any of such acts, the certificate-holder may, with the permission of the Certificate-officer and subject to the like conditions, do all or any of them either by himself or by any person appointed by him in this behalf, and the costs incurred by the certificate-holder shall be recoverable from the certificate-debtor as if they were included in the certificate.
- (3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it has been severed from the soil.

(4) Where an order for the attachment of a growing crop has been made 1918. at a considerable time before the crop is likely to be fit to be cut or gathered, the Certificate-officer may suspend the execution of the order for such time as Act 8. he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending the execution of the order of attachment.

(5) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

Attachment of debt, share, and other moveable property not in possession of certificatedebtor.

18. (r) In the case of—

- (a) a debt not secured by a negotiable instrument,
- (b) a share in the capital of a Corporation, or
- (c) other moveable property not in the possession of the certificate-debtor, except property deposited in, or in the custody of any Court,

the attachment shall be made by a written order prohibiting,-

- (i) in the case of the debt—the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Certificate-officer;
- (ii) in the case of the share—the person in whose name the share may be standing from transferring the same or receiving any dividend thereon:
- (iii) in the case of the other moveable property (except as aforesaid)the person in possession of the same from giving it over to the certificate-debtor.
- (a) A copy of such order shall be affixed on some conspicuous part of the office of the Certificate officer, and another copy shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the Corporation, and in the case of the other moveable property (except as aforesaid), to the person in possession of the same.
- (3) A debtor prohibited under clause (i) of sub-rule (1) may pay the amount of his debt to the Certificate-officer, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.
- 19. Where the property to be attached consists of the share or interest of the Attachment of share in move- certificate-debtor in moveable property belonging to him and another as co-owners, the attachment shall be made by a notice to the certificate debtor prohibiting him from transferring the share or interest or charging it in any way.
- 20. (1) Where the property to be attached is the salary or allowances of a public officer or of a servant of a Railway Company Attachment of salary or allowances of public officer or servant of Railway Company or Local or Local Authority, the Certificate-officer, whether the certificate-debtor or the disbursing officer is or is not Authority. within the local limits of the Certificate-officer's juris-

diction, may order that the amount shall be withheld from such salary or allowances, either in one payment or by monthly instalments as the Certificate-officer may direct; and, upon notice of the order to such officer as the Local Government may, by notification in the Calcutta Gasette, appoint in this behalf, the officer or other person whose duty it is to disburse such salary or allowances shall withhold and remit to the Certificate-officer the amount due under the order, or the monthly instalments, as the case may be.

(2) Where the attachable proportion of such salary or allowances is already being withheld and remitted to a Certificate-officer or to a Civil Court in pursu-*ance of a previous and unsatisfied order of attachment, the officer appointed by

- the Local Government in this behalf shall forthwith return the subsequent order to the Certificate-officer issuing it, with a full statement of all the particulars of the existing attachment.
 - (3) Every order made under this rule, unless it is returned in accordance with the provisions of sub rule (2), shall, without further notice or other process, bind the Government or the Railway Company or Local Authority, as the case may be; and the Government or the Railway Company or Local Authority, as the case may be, shall be liable for any sum paid in contravention of this rule.
 - 21. Where the property is a negotiable instrument not deposited in a Court Attachment of negotiable innor in the custody of a public officer, the attachment struments.

 shall be made by actual seizure, and the instrument shall be brought before the Certificate-officer and held subject to his orders.
 - 22. Where the property to be attached is in the custody of any Court or

 Attachment of property in public officer, the attachment shall be made by a notice to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the notice is issued:

Provided that, where such property is in the custody of a Court, any question of title or priority arising between the certificate-holder and any other person, not being the certificate-debtor, claiming to be interested in such property by virtue of any assignment, attachment or other wise, shall be determined by such Court.

Attachment of immoveable property.

23 Where the property is immoveable, no attachment need be made before sale.

Removal of attachment on satisfaction or cancellation of certificate.

24. Where-

- (a) the amount due, with costs and all charges and expenses resulting from the attachment of any property or incurred in order to a sale, are paid to the Certificate-offic r, or
- (b) the certificate is cancelled,

the attachment shall be deemed to be withdrawn, and, in the case of immoveable property, the withdrawal shall, if the certificate-debtor so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner prescribed by rule 47, sub-rule (1).

MAINTENANCE AND CUSTODY WHILE UNDER ATTACHMENT, OF LIVE-STOCK AND OTHER MOVEABLE PROPERTY.

- 25. Under rule 15, the property seized will remain in the custody of the Custody of property under attaching officer or of one of his subordinates on his attachment.
- 26. If no suitable place can be found in the village for the safe custody of the attached property, the attaching officer shall remove the property to the Court at the certificate-holder's expense. In the event of the certificate-holder failing to provide the necessary funds the attachment shall be withdrawn.
- 27. Whenever attached property is kept at the place where it is attached, the List of property under attachment.

 officer shall forthwith report the fact to the Certificate-officer, and with his report shall forward an accurate list of the property seized, so that the Certificate-officer may thereon at once issue the proclamation of sale.
- 28. If the debtor shall give his consent in writing to the sale of the property

 Debtor's consent to the sale of without awaiting the expiry of the prescribed term, the property under attachment. the officer shall receive the same and forward it without delay to the Certificate-officer for orders.

Custody of property under attachment, while in Court. cannot, from its nature or bulk, be conveniently kept in the Court premises, or in the personal custody of the nasir, he may, subject to approval by the Certificate-officer, make such arrangements for its safe custody under his own supervision as may be most convenient and economical and the Certificate-officer may fix the remuneration to be allowed to the persons, not being officers of the Court, in whose custody the property is kept.

Claim of any person other than the certificate-holder to the property under attachment.

Of the attaching officer, and any person other than the certificate-holder to the property under attachment.

It is attached in the custody of the attaching officer, and any person other than the certificate-debtor shall claim the same, or any part of it, the officer shall nevertheless, unless the certificate-holder desires to withdraw the attachment of the property so claimed, remain in possession, and shall direct the claimant to prefer his claim to the Certificate-officer.

31. If the certificate-holder shall withdraw an attachment, or if it be withdrawal of attachment.

Withdrawal of attachment: shall inform the debtor, or in his absence, an adult member of his family, that the property is at his disposal.

In the absence of any person to take charge of it, or in case the officer shall have had notice of claim by a person other than the certificate-debtor, the officer shall, if the property has been moved from the premises in which it was seized, replace it where it was found at the time of seizure.

- 32. Whenever live stock is kept at the place where it has been attached, the Feeding and tending of live certificate-debtor shall be at liberty to undertake the due feeding and tending of it, under the supervision of the attaching officer; but the latter shall, if required by the certificate-holder, and on his paying for the same, at a rate to be fixed by the Certificate-officer, engage the services of as many persons as may be necessary for the safe custody of it.
- 33. In the event of the certificate-debtor failing to feed attached live-stock, the Cost for feeding live-stock and expenses attending its removal to Court. If the certificate-holder shall fail to provide for either, the officer shall report the matter, without delay, to the Certificate-officer who may thereupon withdraw the attachment.
- 34. When attached live-stock is brought to Court, the nazir shall be responsibility of the nazir for safe custody and proper feeding. sible for the safe custody and proper feeding of it so long as the attachment continues.
- Custody of live-stock in Gov. held, the nasir shall be at liberty to place in it such attached live-stock as can be properly kept there in which case the pound-ke-per will be responsible for the property to the nasir, and shall receive the same rates for accommodation and maintenance thereof as are paid in respect of impounded cattle of the same description.
- Responsibility of the nazir for the custody of live-stock.

 Responsibility of the nazir for the custody of live-stock.

 The may entrust it to any person selected by himself and approved by the Certificate-officer. The nazir will in all cases remain responsible for the custody of the property.
- Rates to be allowed for the custody and maintenance of the various descriptions of live-stock.

 Rates to be allowed for the custody and maintenance of the various descriptions of live-stock with reference to seasons and local circumstances. The Collector may make any stock.

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- 38. (r) Where process of attachment of moveable property by actual seizure

 Rees to be charged where process of attachment of moveable property is by actual seizure.

 The fees in accordance with this rule have been paid.
 - (i) When the amount under the certificate exceeds Rs. 1,000-

	Rs.	A.	P.
(a) for the seizure under the order of attachment	2	0	0
(b) for each man necessary to ensure safe custody of property so attached, when such man is actually in possession,			
	0	б	0
(ii) when the amount under certificate is Rs. 1,000 or under, but ab	076	Rs.	50-
	Rs.	A.	P.
(a) for the seizure under the order of attachment	1	0	0
(b) for each man necessary to ensure the safe custody of pro- perty so attached, when such man is actually in posses.			
sion, per diem	0	4	0
(iii) when the amount under certificate is Rs. 50 or under-			
(a) for the seizure under the order of attachment	0	8	0
(b) for each man necessary to ensure the safe custody of pro- perty so attached, when such man is actually in posses-			
sion, per diem	. 0	4	0

(2) When process of attachment is issued in a number of cases relating to the same or neighbouring villages, the fee (a) referred to above must be paid in each case, and the daily fee (b) only for the men actually employed. The daily fee (b) is to be paid at the time of obtaining the process for so many days as the Certificate-officer shall order, not being ordinarily less than fifteen days, and the number of days required for the coming and going of the attaching officer; but where that officer is not to be left in possession, then the daily fee is to be paid only for the time to be occupied by the officer going, effecting the attachment and returning. When the inventory filed by the certificate-holder shows the property to be of such small value, that the expense of keeping it in custody may probably exceed the value, the Certificate-officer shall fix the daily fee with reference to the provision of rule 15:

Provided that, if it appears that for any reason the number of days fixed by the Certificate-officer under this rule, and in respect of which fees have been paid is likely to be exceeded and certificate-holder desires to maintain the attachment, the certificate-holder shall apply to the Certificate-officer to fix such further number of days as may be necessary and the additional fees in respect thereof shall be paid in the manner provided in sub-rule (3). If such additional fees be not paid within the period originally fixed and in respect of which fees have been paid, the attachment shall cease on the expiry of that period.

(3) The fees prescribed by this rule shall be payable in advance at the time when the petition for service or execution is presented, and shall be paid by means of Court-fee stamps affixed to the petition in addition to the stamps necessary for its ewn validity.

Investigation of claims and objections.

89. (1) Where any claim is preferred to, or any objection is made to the Investigation by Certificate- attachment or sale of, any property in execution of a certificate, on the ground that such property is not liable to such attachment or sale, the Certificate-officer shall proceed to investigate the claim or objection:

Provided that no such investigation shall be imade where the Certificate-officer considers that the claim or objection was designedly or unnecessarily delayed.

(a) Where the property to which the claim or objection applies has been advertised for sale, the Certificate-officer ordering the sale may postpone it pending the investigation of the claim or objection.

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Evidence to be adduced.

40. The claimant or objector must adduce evidence to show that—

- (a) (in the case of immoveable property) at the date of the service of the notice under section 7, or
- (b) (in the case of moveable property) at the date of the attachment, he had some interest in, or was possessed of, the property attached.
- 41. Where, upon the said investigation, the Certificate-officer is satisfied that,
 Release of property from attachment or sale.

 for the reason stated in the claim or objection, such
 property was not,—
 - (a) (in the case of immoveable property) at the date of the service of the notice under section 7, or
 - (b) (in the case of moveable property) at the date of the attachment in the possession of the certificate-debtor or of some person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the certificate-debtor at the said date, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person,

the Certificate-officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or sale.

- 42. Where the Certificate-officer is satisfied that the property was, at the Disallowance of claim to properly aid date, in the possession of the certificate-debtor as perty attached. his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Certificate-officer shall disallow the claim.
- 43. Where a claim or an objection is preferred, the party against whom an Saving of suits to establish right to attached property.

 order is made may institute a suit in a Civil Court to establish the right which he claims to the property in dispute; but, subject to the result of such suit (if any), the order shall be conclusive.

Sale generally.

- 44. Any Certificate officer executing a certificate may order that any property to order sale of attached property.

 Power to order sale of attached property.

 perty liable to sale, or such portion thereof as may seem ne cessary to satisfy the certificate, shall be sold.
- 45. Sales of property under the proviso to rule 15 and of moveable property not exceeding Rs. 20 in value, shall be held on the spot. Sale of moveable property fall-Such sales will necessarily be conducted by peons whe ing under rule is or of value not exceeding Rs. 20 or of greater they are the attaching officers. Sales of moveable property of greater value can, under rule 46, take place only after the issue of a proclamation but they may be held on the spot or at the sadar or sub-divisional head-quarters, as may seem convenient and conducive to the securing of good prices, provided that the place and time of sale are notified in the proclamation. For such sales officers of higher rank than peous should always be deputed when the value of the property is estimated to exceed Rs. 50, and proclamation should be issued. When the value is between Rs. 20 and Rs. 50, the Collector or Certificate-officer may, by a special order, depute a pen, if he considers it desirable to do so.

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- 46. (r) Where any immoveable property, or any moveable property exceeding

 Proclamation of sale by pub. twenty rupees in value, is ordered to be sold by public auction, the Certificate-officer shall cause a proclamation of the intended sale to be made in the language of the Courts of the district.
- (2) Such proclamation shall be drawn up after notice to the certificate-debtor, and shall state the time and place of sale, and shall specify, as fairly and accurately as possible,—
 - (a) the property to be sold;
 - (b) (where the property to be sold is an interest in an estate or in part of an estate paying revenue to the Government) the revenue assessed upon the estate or part of the estate;
 - (c) the amount for the recovery of which the sale is ordered; and
 - (d) any other thing which the Certificate-officer considers it material for a purchaser to know in order to judge of the nature and value of the property.
- (3) Where a tenure, or a raiyati holding at fixed rates, situated in an area in which Chapter XIV. of the Bengal Tenancy Act, 1885,* is in force, is to be sold in execution of a certificate for arrears of rent due in respect thereof, the said proclamation shall also state that the tenure or holding will first be put up to auction subject to registered and notified incumbrances, and will be sold subject to those lincumbrances if the sum bid is sufficient to liquidate the amount specified in the certificate, and costs, and that otherwise it will, if the certificate-holder so desires, be sold on a subsequent day, of which due notice will be given, with power to annul all incumbrances.
- (4) Where an occupancy holding, situated in an area in which Chapter XIV. of the Bengal Tenancy Act, 1885,* is in force, is to be sold in execution of a certificate for arrears of rent due in respect thereof, the said proclamation shall also state that the holding will be sold with power to annul all incumb rances.
- (5) Where the certificate-holder is a co-sharer landlord and the certificate is for his share of the rent only, the provisions of sub-rules (3) and (4) shall not apply.
- (6) For the purpose of ascertaining the matters to be specified in the proclamation, the Certificate-officer may summon any person whom he thinks necessary to summon, and may examine him in respect to any such matters and require him to produce any document in his poss ession or power relating thereto.
- 47. (1) Every proclamation for the sale of immoveable property shall be made

 Mode of making proclama at some place on or near such property by beat of drum
 or other customary mode, and a copy of the proclamation shall be affixed on a conspicuous part of the property and then upon a conspicuous part of the office of the Certificate-officer.
- (2) Where the Certificate-officer so directs, such proclamation shall also be published in the Calcutta Gasette or in a local newspaper, or in both; and the cost of such publication shall be deemed to be costs of the sale.
- (3) If a tenure, a raiyati holding at fixed rates or an occupancy holding situated in an area in which Chapter XIV. of the Bengal Tenancy Act, 1885,* is in force, is to be sold in execution of a certificate for arrears of rent due in respect thereof, the proclamation shall also be published in the Malkachari or rent office of the estate and at the local thana.
- (4) Where property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Certificate-officer, otherwise be given.

Time of sale.

15, no sale hereunder shall, without the consent in writing of the certificate debtor, take place until after the expiration of at least thirty days in the case of immoveable property, or of at least fifteen days in the case of moveable property exceeding twenty rupees in value, calculated from the date on which a copy of a sale proclamation has been affixed in a conspicuous part of the office of the Certificate-officer:

respect thereof, the sale shall not, without the consent in writing of the certificate for a frears of rent due in respect thereof, take place until after the expiration of at least thirty days, calculated

- (a) the date on which a copy of the sale proclamation has been affixed in a conspicuous part of the office of the Certificate officer, or
- (b) the date on which the sale proclamation has been published in the Malkachari or rent office of the estate and at the local thana,

whichever is later.

from-

- 49. (1) No holder of a certificate in execution of which property is sold shall,

 Purchase of property by the certificate-holder.

 without the express permission of the Certificate-officer, bid for or purchase the property.
- (2) Where a certificate-holder purchases with such permission, the purchasemoney and the amount due on the certificate may be set off against one another, and the Certificate-officer executing the cortificate shall enter up satisfaction of the certificate in whole or in part accordingly.
- (3) Where a certificate-holder purchases, by himself or through another person, without such permission, the Certificate-officer may, if he thinks fit, on the application of the certificate-debtor or any other person whose interests are affected by the sale, by order set aside the sale; and the costs of such application and order, and any deficiency of price which may happen on the resale and all expenses attending it, shall be paid by the certificate-holder.
- (4) This rule shall not apply when the certificate-holder is the Secretary of State for India in Council.
- 50. (1) The Certificate-officer may, in his discretion, adjourn any sale hereAdjournment or stoppage of under to a specified day and hour; and the officer consale. ducting any such sale may in his discretion adjourn the
 sale, recording his reasons for such adjournment:

Provided that, where the sale is made in, or within the precincts of, the office of the Certificate-officer, no such adjournment shall be made without the leave of the Certificate-officer.

- (2) Where a sale is adjourned under sub-rule (1) for a longer period than seven days, a fresh proclamation under rule 47 shall be made, unless the certificate-debtor consents to waive it.
- (3) Every sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such debt and costs has been paid to the Certificate-officer who ordered the sale
- 51. Any deficiency of price which may happen on a resale by reason of the Defaulting purchaser answerable for loss on resale.

 Defaulting purchaser answerable from the certificate officer by the officer or other person holding the sale, and shall, at the instance of either the certificate-holder or the certificate-debtor, be recoverable from the defaulting purchaser under the precedure provided by this Act.

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52. No officer or other person having any duty to perform in connection with Restriction on bidding or pur. any sale shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the chase by officers. property sold.

53. (1) Poundage fees shall be leviable in Court-fee stamps in all cases of sale under the Bengal Public Demands Recovery Act, 1913, Levy of poundage fees. at the rate of 2 per cent. on the gross amount realized by the sale up to Rs. 1,000 and at the rate of 1 per cent. on all excess of gross proceeds beyond Rs. 1,000:

Provided that, where a sale of immoveable property is set aside under section 25, sub-section (2) of the Act, any poundage or other fee charged for selling the property shall, on application, be refurded.

- (2) The percentage leviable shall be calculated on multiples of Rs. 25, that is to say, a poundage fee of 8 annas shall be levied for every Rs. 25 or part of Rs. 25, realized by the sale, up to Rs. 1,000, and in the case of the proceeds of the sale exceeding Rs. 1,000, a fee of 4 annas for every Rs. 25 or part thereof of the excess proceeds above Rs. 1,000 shall levied.
- (3) In cases in which several properties are sold in satisfaction of one certificate, only one poundage fee, calculated on the gross sale-proceeds, shall be levied, 2 per cent. being charged on the gross sale-proceeds up to Rs. 1,000 and one per cent. on the excess over Rs. 1,000 of such proceeds.
- (4) The proceeds of a sale effected in execution of any certificate may be paid out of Court only on an application made for that purpose in writing, and the poundage fee for selling the property must be paid by stamps affixed to the first of such applications, whether it be, or be not, made by the person who obtained the order for sale, or whether it does, or does not, extend to the whole of the proceeds. No fee shall be chargeable upon any such application subsequent to the first.
- (5) In cases in which the certificate-holder applies for leave to purchase under rule 49, sub-rule (1), no order to set off the purchase money against the amount of certificate shall be made upon the application for leave to purchase. Such order shall be made upon a petition presented after the property has been knocked down to the certificate-holder at the auction sale, and such petition shall be stamped with stamps of the value of the poundage fee due for selling the property.
- Addition of costs, etc., to cerficate and payment by certifi-cate-holder of purchase-money in excess of the amount of cer-

54. Upon the hearing of the petition referred to in rule 53, sub-rule (5), the costs of execution, including the amount of the stamps attached to the petition, shall be ascertained and shall be added to the certificate; and in cases in which the amount of the purchase-money exceeds the amount of the certificate and of such costs, the certificate-holder

who has so purchased the property shall pay to the Certificate-officer the sum of 25 per cent. upon the balance of the purchase-money after deducting the amount of the certificate and of such costs, and shall pay the balance on or before the fifteenth day from the sale in accordance with rule 69.

SALE OF MOVEABLE PROPERTY.

55. (1) Where the property to be sold is agri-Sale of agricultural produce. cultural produce, the sale shall be held.-

- (a) if such produce is a growing crop—on or near the land on which such crop has grown, or
- (b) if such produce has been cut or gathered—at or near the threshing-floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited.

Provided that the Certificate-officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.

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- (2) Where, on the produce being put up for sale,-
 - (a) a fair price, in the estimation of the person holding the sale, is not offered for it, and
 - (b) the owner of the produce, or a person authorised to act in his behalf applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day,

the sale shall be postponed accordingly, and shall be then completed, whatever price may be offered for the produce.

- 56. (1) Where the property to be sold is a growing crop, and the crop from its

 Special provisions relating to nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before the arrival of such day, and the storing.
 - (2) Where the crop from its nature does not admit of being stored, it may be sold before it is cut and gathered; and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending and cutting or gathering the crop.
- 57. (1) Where moveable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the officer or other person holding the sale directs, and in default of payment the property shall forthwith be resold.
- (2) On payment of the purchase-money, the officer or other person holding the sale shall grant a receipt for the same, and the sale shall become absolute.
- (3) Where the moveable property to be sold is a share in goods belonging to the certificate-debtor and a co-owner, and two or more persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.
- Irregularity not to vitiate sale, but any person sustaining substant any person injured may sue.

 Civil Court against him for compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

Delivery of moveable property, debts and shares.

59. (1) Where the property sold is moveable property of which actual seizure has been made, it shall be delivered to the purchaser.

- (2) Where the property sold is moveable property in the possession of some person other than the certificate-debtor, the delivery thereof to the purchaser shall be made by giving notice to the person in possession, prohibiting him from delivering possession of the property to any person except the purchaser.
- (3) Where the property sold is a debt not secured by a negotiable instrument, or is a share in a Corporation, the delivery thereof shall be made by a written order of the Certificate-officer prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser or receiving payment of any dividend or interest thereon, and the manager, secretary or other proper officer of the Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

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- Transfer of negotiable instrument or a share in a Corporation is standing, is required to transfer such negotiable instrument or share, the Collector, or such officer as he may appoint in this behalf, may execute such document or make such endorsement as may be necessary; and such execution or endorsement shall have the same effect as an execution or endorsement by the party.
 - (2) Such execution or endorsement may be in the following form namely:-
 - A B, by C D, Collector of the district of the Bengal Public Demands Recovery Act, 1913, against A B.
- (3) Until the transfer of such negotiable instrument or share, the Certificateofficer may, by order, appoint some person to receive any interest or dividend due
 thereon, and to sign a receipt for the same; and any receipt so signed shall be as
 valid and effectual for all purposes as if the same had been signed by the party
 himself.
- Vesting order in case of other property.

 Vesting order in case of other property.

 Vesting order in case of other property.

 Vesting order in case of other perty in the purchaser or as he may direct; and such property shall vest accordingly.

SALE OF IMMOVEABLE PROPERTY.

- 62. (1) When a tenure or a holding at fixed rates, situated in an area in Sale of tenure or holding at maked rates, subject to registered and neithed incumbrances.

 1885,* is in force, has been advertised under rule 46 for sale in execution of a certificate for arrears of rent due in respect thereof, it shall be put up to auction subject to registered and notified incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the certificate and the costs of the sale, the tenure or holding shall be sold subject to such incumbrances.
- (2) The purchaser at such sale may, in manner provided by section 167 of the Bengal Tenancy Act, 1885,* and not otherwise, annul any incumbrance upon the tenure or holding, not being a registered and notified incumbrance.
- Sale of tenure or holding at fixed rates, but up to sale of tenure or holding at fixed rates, with power to avoid all incumbrances.

 all incumbrances.

 to liquidate the amount of the certificate and costs as aforesaid, and if the certificate-holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the person holding the sale shall, adjourn the sale and make a fresh proclamation under rule 46 announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances, upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances.
- (2) The purchaser at a sale under this rule may, in manner provided by section 167 of the Bengal Tenancy Act, 1885,* and not otherwise, annul any incumbrance on the tenure or holding.
- 64. (1) When an occupancy-holding, situated in an area in which Chapter Sale of occupancy holding, XIV. of the Bengal Tenancy Act, 1885,* is in force, with power to avoid all incumbrances. has been advertised under rule 46 for sale in execution of a certificate for arrears of rent due in respect thereof, it shall be put up to auction and sold with power to avoid all incumbrances.
- (2) The purchaser at a sale under this rule may, in manner provided by section 167 of the Bengal Tenancy Act, 1885,* and not otherwise, annul any incumbrance on the holding.

Rules 62 to 64 not to apply in certain cases to certificale-holders who are co-sharer landholders.

65. Where the certificate-holder is a co-sharer 1913. landlord and the certificate is for his share of the rent only, the provisions of rules 62, 63 and 64 shall not Act & apply.

- 66. (1) Where an order for the sale of immoveable property has been made, if the certificate-debtor can satisfy the Certificate-officer Postponement of sale to enable certificate-debtor to raise that there is reason to believe that the amount of the amount due under certificate. certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immoveable property of the certificate-debtor, the Certificate-officer may, on his application, postpone the sale of the property comprised in the order for sale, on such terms and for such period as he thinks proper, to enable him to raise the amount.
- (2) In such case the Certificate officer shall grant a certificate to the certificatedebtor, authorising him, within a period to be mentioned therein, and notwithstanding anything contained in section 8 or section 18, to make the proposed mortgage, lease or sale ?

Provided that all moneys payable under such mortgage, lease or sale shall be paid, not to the certificate-debtor, but to the Certificate-officer:

Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Certificate-officer.

- 67. (1) When a tenure or holding, situated in an area in which Chapter XIV. of the Bengal Tenancy Act, 1885,* is in force, is put Prohibition of purchase of tenure or holding by certificateup for sale in execution of a certificate for arrears of rent due in respect thereof, the certificate-debtor shall not bid for or purchase the tenure or holding.
- (a) If a certificate-debtor purchases, by himself or through another person, a tenure or holding so sold, the Certificate-officer may, if he thinks fit, on the application of the certificate-holder or any other person interested in the sale, by order, set aside the sale; and the costs of the application and order, and any deficiency of price which may happen on the resale, and all expenses attending it, shall be paid by the certificate-debtor.
- 68. On every sale of immoveable property, the person declared to be the purchaser shall pay, immediately after such declaration, a Deposit by purchaser and re-sale in default. deposit of twenty-five per cent. on the amount of his purchase-money, to the officer or other person conducting the sale; and, in default of such deposit, the property shall forthwith be resold.

Time for payment of pur-chase-money in full.

- 69. The full amount of purchase-money payable shall be paid by the purchaser to the Certificate-officer on or before the fifteenth day from the sale of the property.
- 70. In default of payment within the period mentioned in rule 69, the deposit may, if the Certificate-officer thinks fit, after defraying Procedure in default of paythe expenses of the sale, be forfeited to the Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.
- 71. Every resale of immoveable property, in default of payment of the purchasemoney within the period allowed for such payment, shall Notification on resale. be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.
- 72. Where the property sold is a share of undivided immoveable property, and two or more persons, of whom one is a co-sharer. Bid of co-sharer to have prerespectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

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- 78. Where a sale of immoveable property is set aside, any money paid or deposited by the purchaser on account of the purchaser Return of purchase-money in Act 3, certain cases. together with the penalty (if any) referred to in clause
 - (b) of section 22, and such interest as the Certificate-officer may allow, shall be paid to the purchaser.
 - 74. (1) Where a sale of immoveable property has become absolute, the Certificate-officer shall grant a certificate specifying the Certificate to purchaser. property sold and the name of the person who at the time of sale is declared to be the purchaser.
 - (2) Such certificate shall bear the date day on which the sale became absolute.
 - 75. Where the immoveable property sold is in the occupancy of the certificate-Delivery of property in occu. debtor, or of some person on his behalf, or of some perpancy of certificate-debtor. son claiming under a title created by the certificatedebtor subsequently to the service of the notice issued under section 7, and a certificate in respect thereof has been granted under rule 74, the Certific ite-officer shall, on the application of the purchaser, order delivery to be made by putting such purchaser, or any person whom he may appoint to receive delivery on his behalf, in possession of the property, and, if need be, by removing any person who refuses to vacate the same.
 - 76. Where the property sold is in the occupancy of a tenant or other person Delivery of property in occu-pancy of tenant or other person. entitled to occupy the same, and a certificate in respect thereof has been granted under rule 74, the Certificateofficer shall, on the application of the purchaser, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, that the interest of the certificate-deb or has been transferred to the purchaser.

ARREST AND DETENTION.

- 77. (1) The Certificate-officer may, before issuing a warrant for the arrest of Discretionary power to permit the certificate debtor, issue a notice calling upon him certificate-debtor to show cause to appear before the Certificate-officer, on a day to against detention in prison. be specified in the notice, and show cause why he should not be committed to the civil prison.
- (2) Where appearance is not made in obedience to the notice, the Certificate officer may issue a warrant for the arrest of the certificate-debtor.
- 78. (1) When a certificate has been signed either in accordance with the provisions of section 4, or on a requisition made under Subsistence allowance. section 5, no certificate-debtor shall be arrested in execution of the certificate unless and until the certificate-holder pays into Court such sum as the Certificate-officer thinks sufficient for the subsistence of the certificatedebtor from the time of his arrest until he can be brought before the Certificateofficer.
- (2) When a certificate-debtor is committed to the civil prison in execution of a certificate, the Certificate-officer shall fix for his subsistence such monthly allowance as he may be entitled to according to the scale fixed by the Local Government for the subsistence of arrested judgme nt debtors, or, where no such scale has been fixed, as the Certificate-officer considers sufficient with reference to the class to which the certificate-debtor belongs.
- (3) The monthly allowance fixed by the Certificate-officer shall be supplied, by the person upon whose requisition the certificate was signed, by monthly payments in advance before the first day of each month.
- (4) The first payment shall be made to the Certificate officer for such portion of the current month as remains unexpired before the certificate-debtor is committed to the civil prison; and the subsequent payments (if any) shall be made to the officer in charge of the civil prison.

(5) Sums disbursed by the certificate-holder for the subsistence of the certificate-debtor in the civil prison shall be deemed to be costs in the proceeding:

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Provided that the certificate-debtor shall not be detained in the civil prison or arrested on account of any sum so disbursed.

SUPPELEMENTAL.

- 79. (r) Every Certificate-officer shall cause to be kept in his office a register of certificates.

 Register of certificates.

 of certificates filed in his office under this Act, and shall cause particulars of all such certificates to be entered in such register.
- (2) Such register shall be open during office hours, for not less than two hours daily, and at such time as may be fixed by the Collector, for inspection by any person who desires to inspect the same; and a fee of one anna shall be chargeable for every such inspection.

Note .- The fee should be prepaid by Court-fee stamp affixed to the application.

- 80. (1) Payment of the amount due under any certificate may be made by instalments, if the Certificate-officer in whose office the certificate is filed so directs.
- (2) The payment of every such instalment shall be entered in the register referred to in rule 79.
- 81. When a copy of a certificate has been sent to another officer under secRemittance to Certificate-officer of sums received under a certificate transferred for execution.

 12, sub-section (1), all sums except Government demands, received by such officer under such certificate shall be remitted by him to the Certificate-officer in whose office the original certificate is filed.
- 82. When the whole or any partion of the amount due under a certificate has been realized, the Certificate-officer in whose office the original certificate is filed shall cause an entry of the fact to be made upon the certificate and in the register referred to in rule 79.

Communication of satisfaction to other persons.

83. When a copy of a certificate has been sent to another officer under section 12, sub-section (1),

or when a certificate has been signed upon a requisition,

any satisfaction of the certificate, whether in whole or in part shall be certified to such officer, or to the sender of such requisition, as the case may be.

FORMS.

Forms in Appendix.

84. The forms set forth in the Appendix shall be used, with such variations as circumstances may require.

1918. Act 8.

APPENDIX.

FORMS.

(See rule 84.)

FORM No. 1.

CERTIFICATE OF PUBLIC DEMAND.

(See sections 4 and 6.)

Filed in the Office of the Certificate-officer of (name of District).

No. of Certicate.	Name and address of cer- tificate-holder.	Name and address of certificate-debtor.	Amount of public demand [including interest, if any, and including the fee paid under section 5, sub-section (2), if any] for which this certificate is signed, and period for which such demand is due.	Further par- ticulars of the public demand for which this certificate is signed.
I	2	3	4	5

I hereby certify that the above-mentioned sum of Rs. named

is due to the above-

from the above-named

[If the certificate is signed on requisition sent under section 5, add-]

I further certify that the above-mentioned sum of Rs. and that its recovery by suit is not barred by law.

is justly recoverable

Dated this

day of

Certificate-officer of

FORM No. 2.

1918. Act 8

REQUISITION FOR A CERTIFICATE.

(See section 5.)

To the Certificate-officer of the district of

Name of certificate- debtor.	Address of certificate-debtor.	Amount of public demand for which this requisition is made.	Nature of the pub- lic demand for which this requi- sition is made.
1	2	3	4

I request you to recover the above-mentioned sum of Rs. , wh fied, after inquiry, is due from the said

, which I am satis-

Verified by me on the

in respect of day of

, 19

A. B.

(Designation.)

FORM No. 3.

NOTICE TO CERTIFICATE-DEBTOR.

(See section 7.)

To (name of Certificate-debtor).

You are hereby informed that a certificate against you for Rs. , due from you on account of , has this day been filed in my office, under section of the Bengal Public Demands Recovery Act, 1913. If you deny your liability to pay the said sum of Rs , you may, within thirty days from the service of this notice, file in my office a petition denying liability, in whole or in part. If, within the said thirty days, you fail to file such a petition, or if you fail to show cause, or do not show sufficient cause, why such certicate should not be executed, it will be executed, under the provisions of the said Act, unless you pay Rs. (Rs. on account of the demand and Rs. on account of costs of realization) into my office. Until the said amount is so paid, you are hereby prohibited from alienating your immoves ble property, or any part of it, by sale, gift, mortgage or otherwise. If you in the meantime canceal, remove or dispose of any part of your moveable property, the certificate will be executed immediately.

A copy of the certificate above mentioned is hereto annexed.

You may remit the amount by money-order, quoting the number and year of the certificate.

Dated this

day of

, 19 ,

A. B., Certificate-officer of B. C.—207,

1918. Act &

FORM No. 4.

PETITION DENYING LIABILITY.

(See section 9.)

To

THE CERTIFICATE-OFFICER OF

The humble petition of (name of petitioner) of (address). SHOWETH-

(year), for the 'sum of Rs. has been That a certificate No. of of the Bengal Public filed against your petitioner in your office under section Demands Recovery Act, 1913.

That your petitioner respectfully denies his liability to pay the said sum of (or, where the liability to pay part is admitted, denies his liability to pay more than Rs.), and this for the following reasons:-

That the facts above stated are true to the best of your petitioner's knowledge and belief.

Your petitioner therefore respectfully prays that the said certificate may be set aside (or modified or varied).

A. B.

(Petitioner.)

FORM No. 5.

NOTICE TO SHOW CAUSE WHY SALE SHOULD NOT BE SET ASIDE. [See proviso to section 25 (2)].

To

WHEREAS the undermentioned property was sold on the day of , 19 , in execution of certificate No. , dated the , the certificate-holder [er And whereas certificate-debtor] has applied to me to set aside the sale of the said property on the ground that

Take notice that if you have any cause to show why the said application should not be granted, you should appear with your proofs in this office on the , 19 , when the said application will be heard and determined. day of

GIVEN under the seal of the Court, this

day of , 19 .

Description of property.

Certificate officer.

FORM No. 6.

SUMMONS TO APPEAR AND ANSWER CHARGE OF OBSTRUCTING EXECUTION OF CERTIFICATE.

> [See section 27 (2).] Certificate No. of 10 .

To

WHEREAS , the certificate-holder in the above certificate has complained to this Court that you have resisted (or obstructed) the officer charged with the execution of the warrant for possession;

You are hereby summoned to appear in this Court on the day of A.M., to answer the said 19 , at complaint.

Given under the seal of the Court, this ٥f

day

٠.

Certificate-officer of

19 .

FORM No. 7. WARRANT OF COMMITTAL.

1913. Act 8

(See section 28.)

To

THE OFFICER IN CHARGE OF THE CIVIL PRISON AT

WHEREAS the undermentioned property has been sold to

the purchaser at auction sale in execution of certificate case

No. dated 19, and whereas the Court

is satisfied that without any just cause resisted (or

obstructed) and is still resisting (or obstructing) the said

in obtaining possession of the property, and whereas the

said
has made application to this Court that the said
be committed to the civil prison;

You are hereby commanded and required to take and receive the said into the civil prison and to keep him imprisoned therein for the period of days.

Given under the seal of the Court, this of

day

Certificate-officer.

FORM No. 8.

WARRANT OF ARREST.

(See section 29.)

To

WHEREAS a certificate No.

Rs.	As.	P.

was filed in this office on the , 19 , under section of the Bengal Public Demands Recovery Act, 1913, against

, certificate-debtor, and the sum of Rs.
, as noted in the margin, is due from him in respect of the said certificate; and whereas the said sum of Rs.

has not been paid to the certificate-holder in satisfaction of the said certificate; these are to command you to arrest the said certificate-debtor and, unless the said certificate-debtor shall pay to

you the said sum of Rs. , together with Rs. for the cos of executing this process, to bring him before the Court with all convenient speed.

You are further commanded to return this warrant on or before the day of 19, with an endorsement certifying the day on which and the manner in which it has been executed, or the reason why it has not been executed.

Dated this

day of

, 19 .

Certificate-officer.

FORM No. 9.

ORDER COMMITTING CERTIFICATE-DEBTOR TO THE CIVIL PRISON.
(See section 29.)

To
The Officer in charge of the Civil Prison at

WHEREAS , who has been brought before me this execution of certificate No. , filed in this office on the , 19 , and a warrant in

of the Bengal Public Demands Recovery Act, 1913, and by which 1018 under section certificate it was ordered that the said and whereas the said Act 8.

should pay

has not paid the said sum nor satisfied me that he is entitled to be discharged from custody;

You are hereby, in the name of the King-Emperor of India, commanded and required to take and receive the said

into the Civil Prison and keep him imprisoned or until the said certificate shall therein for a period not exceeding be fully satisfied, or the said shall be otherwise entitled to be released according to the terms and provisions of section 31 or section 32 of the said Act; and annas per diem as the rate of the monthly I hereby fix

allowance for the subsistence of the said during his confinement under this order of committal.

Dated this

day of

, 19

Certificate officer.

FORM No. 10.

ORDER FOR THE RELEASE OF A PERSON IMPRISONED IN EXECUTION OF A CERTIFICATE.

[See sections 31 and 32.]

District

Certificate No.

of 1Q .

To

THE OFFICER IN CHARGE OF THE CIVIL PRISON

Under orders passed this day, you are hereby directed to set free certificate-debtor, now in your custody.

Dated this

day of

. 19

Certificate-officer.

FORM No. 11.

NOTICE TO LEGAL REPRESENTATIVE OF CERTIFICATE-DEBTOR.

(See section 43.)

To (name of legal representative).

, deceased for You are hereby informed that a certificate against , was filed in this office on due from him on account of Rs. of the Bengal Public Demands Recovery Act, , 19 , under section the , in respect of the said certificate proceeding is 1913, and that a demand of Rs deceased. If you deny due from you as the legal representative of the said , you may, within thirty days from the your liability to pay the said sum of Rs. service of this notice, file in my office a petition denying liability, in whole or in part. If, within the said thirty days, you fail to file such a petition, or if you fail to show cause, or do not show sufficient cause, why such certificate should not be executed, it will be executed, under the provisions of the said Act, unless you pay Rs. on account of costs of realization) into my on account of the demand and Rs. office. Until the said amount is so paid, you are hereby prohibited from alienating your immoveable property, or any part of it, by sale, gift, mortgage or otherwise. If you in the meantime conceal, remove or dispose of any part of your moveable property, the certificate will be executed immediately.

A copy of the certificate above-mentioned is hereto annexed.

You may remit the amount by money-order, quoting the number and year of the certificate.

Dated

day of

, 19 ,

Certificate officer of

FORM No. 12.

1918 Act 8

Attachment in Execution.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS, OR OF MOVEABLE PROPERTY NOT IN THE PUSSESSION OF THE CERTIFICATE-DEBTOR.

[See rule 18 (1) (a) and (c).]

To

οf

WHEREAS
certificate No.
of 19, for Rs.
; it is ordered
that defendant be and is hereby, prohibited and restrained until the further order of
this Court, from receiving from you*
to the said certificate-debtor, namely,
and that you, the said
be, and you are hereby prohibited and restrained, until the further order of this Court

from to

any person whomsoever, or otherwise than into this Court.

Certificate-officer of

GIVEN under the seal of the Court this

FORM No. 13.

Attachment in Execution.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN THE CAPITAL OF A CORPORATION.

[See rule 18 (1) (b).]

To

αf

and to

, certificate-debtor

, Secretary of Corporation.

WHEREAS

Certificate No.

of 19, for Rs.

; it is ordered that you, the defendant, be and you are hereby, prohibited and restrained, until the further order of this Court from making any transfer of

shares in the aforesaid Corporation, namely, or from receiving payment of any dividends thereon; and you , the Secretary of the said Corporation,

are hereby prohibited and restrained from permitting any such transfer or making any auch payment.

GIVEN under the seal of the Court, this

day

day

Certificate-officer of

^{* &}quot;A certain debt alleged now to be due from you," or "certain moveable property in your possession but alleged to belong."

† "Making payment of the said debt" or "giving delivery of the said moveable property."

1918.

FORM No. 14.

Act 3.

Attachment in Execution.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE CERTIFICATE-DEBTOR IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

[See rule 18 (1) (c).]

To

WHEREAS has failed to satisfy Certificate No. of 19 , for Rs. it is ordered that the certificate-debtor be, and is hereby, prohibited and restrained, until the further order of this Court, from receiving from the following property in the possession of the said that is to say, to which the certificate-debtor is entitled, subject to any claim of the said

and the asid is bereby prohibited and restrained, until the further order of this Court, from delivering the said property to any person or persons whomsoever.

GIVEN under the seal of the Court, this the

day

due to him

day

, 19

Certificate-officer of

FORM No. 15.

ORDER TO ATTACH SALARY OF PUBLIC OFFICER OR SERVANT OF RAILWAY COMPANY OR LOCAL AUTHORITY.

[See rule 20.]

To

of

WHEREAS certificate case No.

certificate-debtor in of salary

receiving his or allowances at your hands; and certificate-holder in the said case, has applied

in this Court for the attachment of the said or allowance of the said

to the extent of under the certificate, you are hereby required to withhold the said sum of

from the salary of the said

in monthly instalments of sum

and to remit the said or monthly instalments to this Court. GIVEN under the seal of the Court, this

of

, 19

Certificate-officer of

Describe effice of certificate-debter,

FORM No. 16.

1913.

ORDER OF ATTACHMENT OF NEGOTIABLE INSTRUMENT.

Act 8.

[See rule 21.]

To

THE COLLECTORATE Nasir. WHEREAS an order has been passed by this Court on the 19 , for the attachment of , you are hereby directed to seize the said and bring the same into Court.

GIVEN under the seal of the Court, this ٥f

day

Certificate-officer.

FORM No. 17.

Attachment.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE CUSTODY OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT.

(See rule 22.)

Certificate case No.

of iq .

To

SIR.

THE certificate holder having applied, under rule 22 of Schedule II. of the Bengal Public Demands Recovery Act, 1913, for an attachment of certain money now in your hands: I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,

SIR.

Your most obedient servant,

Certificate-officer of

Dated the

account, etc.

day of

. 10

FORM No. 18.

NOTICE TO CERTIFICATE-HOLDER,

(See rule 39.)

WHEREAS has made application to this Court for the replaced at your instance in execution of moval of attachment on of 19; this is to give you notice to appear before me on certificate No. • , the day of , 19 , either in person or by a pleader duly instructed to support your claim, as attaching creditor.

GIVEN under the seal of the Court, this

day of

, 19 .

Certificate officer. * Here state how the money is supposed to be in the hands of the person addressed, on what

1948.

FORM No. 19.

Act 8.

WARRANT OF SALE OF PROPERTY.

(See rule 44.)

To

THE

THESE are to command you to sell by auction, af ter giving days' previous notice, by affixing the same in this office, and after making due proclamation, the undermentioned property attached in execution of certificate No. in favour of , or so much of the said property as shall realize the sum of Ra. , being the of the said certificate and costs still remaining unsatisfied.

You are further commanded to return this warrant on or before the day of , 19 , with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed.

GIVEN under the seal of the Court, this

day of

, 10 .

Specification of property:-

Certificate officer.

FORM No. 20.

Notice of the day fixed for settling a Sale Proclamation.

(See rule 46.)

To

certificate-debtor.

WHEREAS, in execution of certificate No. of a sale is about to be held of your property mentioned below; you are hereby informed that the day of , 19, has been fixed for settling the terms of the proclamation of sale.

The total amount due from you in respect of the certificate including costs and interest is

GIVEN under the seal of the Court, this

day of

, 19 .

Specification of property :-

Certificate-officer.

FORM No. 21.

PROCLAMATION OF SALE.

(See rule 46.)

Notice is hereby given that, under rule 44 in Schedule II. to the Bengal Public Demands Recovery Act. 1913, an order has been passed by me for the sale of the property mentioned in the annexed schedule, in satisfaction of the claim of the certificate-holfer under the certificate mentioned in the margin amounting, with certs and interest up to date of sale, to the sum of

The sale will be by public auction, and the property will be put up for sale in the lots specified in the schedule. The sale will be of the property of the certificate-debtor above, named as mentioned in the schedule below.

In the absence of any order of postponement, the sale will be held by

at the monthly sale commencing at o'clock on the at . In the event, bowever, of the debt above specified, and of the costs of the sale, being tendered or paid before the knocking down of any lot, the sale will be stopped.

At the sale the public generally are invited to bid, either personally or by duly authorized agent. The following are the further

1913.

Act 3.

Conditions of Sale.

- 7. The particulars specified in the schedule below have been stated to the best of the information of the Certificate-officer: but the Certificate-officer will not be answerable for any error, mis-statement or omission in this proclamation.
- 2. The amount by which the biddings are to be increased shall be determined by the officer conducting the sale. In the event of any dispute arising as to the amount bid, or as to the bidder, the lot shall at once be again put up to auction.
- 3. The highest bidder shall be declared to be the purchaser of any lot, provided always that he is legally qualified to bid, and provided that it shall be in the discretion of the officer holding the sale to decline acceptance of the highest bid when the price offered appears so clearly inadequate as to make it advisable to do so.
- 4. For reasons recorded, it shall be in the discretion of the officer conducting the sale to adjourn it, subject always to the provisions of rule 32 in Schedule II. to the Beugal Public Demands Recovery Act, 1913.
- 5 In the case of moveable property, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs, and in default of payment the property shall forthwith be again put up and resold.
- 6. In the case of immoveable property, the person declared to be the purchaser shall pay immediately after such declaration a deposit of 25 per cent. on the amount of his purchase-money to the officer conducting the sale, and in default of such deposit the property shall forthwith be put up again and resold.
- 7. The full amount of the purchase-money shall be paid by the purchaser before the office of the Certificate-officer closes on the fifteenth day after the sale of the property, exclusive of such day, or, if the fifteenth day be a Sunday or other holiday, then on the first office day after the fifteenth day.
- 8 In default of payment of the balance of purchase-money within the period allowed, the property shall be resold after the issue of a fresh notification of sale. The deposit, after defraying the expenses of the sale, may, if the Certificate-officer thinks fit, be forfested to the Government, and the defaulting purchaser shall torfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

GIVEN under the seal of the Court, this

day of

, 19 .

Certificate officer.

Schedule of Property.

Number of lot.	Description of pro- perty to be sold, with the name of each owner where there are more certi- ficate-debtors than one.	The revenue assessed upon the estate or part of the estate, if the property to be sold is an interest in an estate or a part of an estate paying revenue to the Government.	Claims (if any) which have been put forward to the property, and any other known particulars bear- ing on its nature and value.			
	2	3	4			

1913.

FORM No. 22.

Act 8. ORDER ON THE NAZIR FOR CAUSING PUBLICATION OF PROCLAMA-TION OF SALE.

(See rule 47.)

To

The Nasir of
WHEREAS an order has been made for the sale of the property of the certificatedebtor under certificate No., dated the , 19, which is specified in the
schedule hereunder annexed; and whereas the day of

, 19 , has been fixed for the sale of the said property;
copies of the proclamation of sale are by this warrant made over to
you, and you are hereby ordered to have the proclamation published by beat of drum
within each of the properties specified in the said schedule, to affix a copy of the said
proclamation on a conspicuous part of each of the said properties and afterwards on
my office, and then to submit to me a report showing the dates on which and the
manner in which the proclamations have been published.

Date the

day of

Certificate-officer.

, 19 .

Schedule.

FORM No. 23.

CERTIFICATE, BY OFFICER HOLDING A SALE, OF THE DEFICIENCY OF PRICE ON A RESALE OF PROPERTY BY REASON OF THE PURCHASER'S DEFAULT.

(See rule 51.)

CERTIFIED that at the resale of the property in execution of certificate No., dated the , 19 in consequence of default on the part of purchaser, there was a deficiency in the price of the said property amounting to Rs. and that the expenses attending such resale amounted to Rs. , making a total of Rs. , which sum is recoverable from the defaulter.

Dated the

day of

, 10 .

Officer holding the sale.

FORM No. 24.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.

[See rule 59 (2).]

Ta

of

WHEREAS
public sale in execution of Certificate No.

19, or (now in your possession)

you are hereby prohibited from delivering possession of the said to any person except the said

GIVEN under the Seal of the Court, this

day

Certificate-officer.

FORM No. 25.

1913.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

Act 3.

[See rule 59 (3).]

To AND

SECRETARY OF

CORPORATION.

WHEREAS has become the purchaser at a public sale in execution of Certificate No. of certain shares in the above Corporation, that is to say, of standing in the name of you

it is ordered that you be, and you are hereby, prohibited from making any transfer of the said shares to any person except the said , the purchaser aforesaid, or from receiving any dividends thereon; and you

. , Secretary of the said Corporation, from permitting any such transfer or making any such payment to any person except the said

aforesaid.

GIVEN under the Seal of the Court, this , IQ

day

, the purchaser

Certificate officer.

FORM No. 26.

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXE-CUTION TO ANY OTHER THAN THE PURCHASER.

[See rule 59 (3).]

To

AND C)

WHEREAS has become the purchaser at a public sale in execution of Certificate No. of 19 being debts due from you to you ; it is ordered that you be, and you are hereby prohibited

from making payment of the said debt to any person or persons except the said

GIVEN under the Seal of the Court, this of , 19

from receiving, and you

day

Certificate-officer of

FORM No. 27.

CERTIFICATE TO CERTIFICATE-DEBTOR AUTHORIZING HIM TO MORT-GAGE, LEASE OR SELL PROPERTY.

(See rule 66.)

WHEREAS in execution of Certificate No. of 10, an order was made , .9 , for the sale of the undermentioned day of on the property of the certificate-debtor and whereas the Court has, on the application of the said certificate-debtor, postponed the said sale to enable him to raise the amount of the certificate by mortgage, lease, or private sale of the said rpoperty or of some part thereof :

1913. Act 3. This is to certify that the Court doth hereby authorize the said certificate-debtor to make the proposed mortgage, lease, or sale within a period of from the date of this certificate: provided that all monies payable under such mortgage, lease, or sale shall be paid into this Court and not to the said certificate-debtor.

DESCRIPTION OF PROPERTY.

GIVEN under the Seal of the Court, this of

day

Certificate-officer.

FORM No. 28.

CERTIFICATE OF SALE OF LAND.

(See rule 74.)

This is to certify that at a sale by public auction on the day of cution of certificate No. , dated the has been duly confirmed by me.

has been declared the purchaser, , 19 , of in exe-, 19 , and that the said sale

GIVEN under the seal of the Court, this

day of

2 , 19 . Certificate-officer.

FORM No. 29.

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.

(See rule 75.)

To

The

WHEREAS has become the certified purchaser of

at a sale in execution of certificate No. . dated the , 19; you are hereby ordered to put the said the certified purchaser, as aforesaid, into possession of the same.

GIVEN under the seal of the Court, this

day of

, 19 .

Certificate-officer.

FORM No. 30.

NOTICE TO SHOW CAUSE WHY WARRANT OF ARREST SHOULD NOT ISSUE.

(See rule 77.)

To

WHEREAS has made application to me for execution o, certificate No. of 19, by arrest and imprisonment of your person; you are hereby required to appear before me on the day of 19, to show cause why you should not be committed to the Civil Prison in execution of the said certificate.

GIVEN under the seal of the Court, this

day of

, 10

Certificate officer.

BEN ACT NO. IV. OF 1913.

1913. Act 4

The Bengal Public Gambling (Amendment) Act, 1913.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 14TH MAY, 1913.]

An Act further to amend the law in force in hengal relating to public gambling.

WHEREAS it is expedient further to amend the law in force in Bengal relating to public gambling;

And whereas the sanction of the Governor-General has been obtained under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Bengal Public Gambling (Amendment) Act, 1913.
- 2. For the definitions of "common gaming-house," "gaming"

 Amendment of definitions and "instruments of gaming," in section 59 as to gaming of the Howrah Offences Act, 1857† section 3 of the Calcutta Police Act, 1866,‡ and section 1 of the Bengal Public Gambling Act, 1867,§ the following shall be substituted, namely:—
 - "'gaming' includes wagering or betting [except wagering or betting upon a horse-race, when such wagering or betting takes place—
 - (a) on the day on which such race is to be run, and
 - (b) in an enclosure which the Stewards controlling such race have, with the sanction of the Local Government, set apart for the purpose],

but does not include a lottery;

- 'instruments of gaming' includes any article used as a means or appurtenance of, or for the purpose of carrying on or facilitating, gaming; and
- 'common gaming-house' means any house, room, tent, or walled enclosure, or space, or vehicle, or any place whatsoever, in which any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, space, vehicle or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, place or instruments or otherwise howsoever."

Exemption of games of mere skill.

3. (1) After section 15 of the Howrah Offences Act, 1857,† the following shall be inserted, namely:—

^{* 55} and 56 Vict, c, 14. † Act XXI. of 1857.

Ben. Act IV. of 1866.Ben. Act II. of 1867.

1660 BENGAL PUBLIC GAMBLING (AMENDMENT) ACT.

1918. Act 4.

Exemption of games of mere skill.

"15A. Nothing in sections
to to 15 shall apply to any game
of mere skill, wherever played."

(2) After section 50 of the Calcutta Police Act, 1866,* the following shall be inserted, namely:—

Exemption of games of mere skill.

"50A. Nothing in sections 44 to 50 shall apply to any game of mere skill, wherever played."

(3) After section 11 of the Bengal Public Gambling Act, 1867,† the following shall be inserted, namely:—

Exemption of games of mere skill.

"IIA. Nothing in this Act shall apply to any game of mere skill, wherever played."

4. For the words "playing for money or other valuable thing Amendment of section 11 with cards, dice, counters, or other instruof Bengal Act II. of 1867. ments of gaming used in playing any game not being a game, of mere skill," in section 11 of the Bengal Public Gambling Act, 1867,† the word "gaming" shall be substituted.

Repeal.

- 5. The following enactments are hereby repealed, namely:—
- (1) the definition of "common gaming-house" in section 51 of the Calcutta Suburban Police Act, 1866;‡
- (2) the words "three successive numbers of," in section 2 of the Bengal Public Gambling Act, 1867;†
- (3) section 10 of the Bengal Public Gambling Act, 1867;†
- (4) the Bengal Rain-gambling Act, 1897.§

Ben Act IV. of 1866.

[†] Ben. Act II. of 1867.

[‡] Ben. Act II. of 1866. § Ben, Act III. of 1897.

BEN. ACT NO. I. OF 1914.

1914. Act 1.

The Bengal Laws Act, 1914.

CONTENTS.

SECTION.

- 1. Short title.
- 2. Definitions.
- 3. Extension of enactments to Eastern Bengal.
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- 6. Repeal of enactments.
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SCHEDULE I .- Enactments extended to Eastern Bengal.

SCHEDULE II - Enactments extended to Western Bengal.

SCHEDULE III .- Enactments amended.

SCHEDULE IV.-Enactments repealed.

BEN. ACT NO. I. OF 1914.

The Bengal Laws Act, 1914.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 14TH JANU-ARY, 1914.]

An Act to assimilate certain enactments in force in Eastern and Western Bengal, to amend certain enactments, and to repeal certain other enactments.

WHEREAS it is expedient to extend certain enactments of the Bengal Legislative Council to Eastern Bengal, and to extend certain enactments of the Eastern Bengal and Assam Legislative Council to Western Bengal;

And whereas it is also expedient that certain formal amendments should be made in enactments in force in Bengal;

And whereas it is also expedient that certain enactments in force in Bengal should be repealed;

And whereas the previous sanction of the Governor-General has been obtained under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Bengal Laws Act, 1914.

1914. Definitions.

2. In this Act,-

Act 1.

- (1) "Eastern Bengal" means the territory mentioned in Part I. of Schedule A to the Bengal, Bihar and Orissa and Assam Laws Act, 1912,* and
- (2) "Western Bengal" means the territory mentioned in Part II, of that Schedule.
- 3. The enactments specified in Schedule I. are hereby ex-Extension of enactments tended to Eastern Bengal, to the extent to Eastern Bengal. mentioned in column 4 thereof.
- 4. The enactments specified in Schedule II. are hereby ex-Extension of enactments tended to Western Bengal, to the extent to Western Bengal. mentioned in column 4 thereof:

Provided that the Eastern Bengal and Assam Disorderly Houses Act, 1907,† shall not apply to any municipality, constituted under the Bengal Municipal Act, 1884,‡ in which the Calcutta Suburban Police Act, 1866,§ is in force.

5. The enactments specified in Schedule III. are hereby Amendment of enact. amended to the extent and in the manner ments. mentioned in column 4 thereof.

Repeal of enactments.

6. The enactments specified in Schedule IV. are hereby repealed to the extent mentioned in column 4 thereof.

Continuance of orders, etc., issued under certain repealed enactments.

- 7. Every appointment, order, rule, notification or form made or issued under—
- (a) the Land Registration Act, || as amended by the Bengal Land Registration (Amendment) Act, 1906.
- (b) the Bengal Military Police Act, 1892,** or
- (c) the Bengal Disorderly Houses Act, 1906,†† shall, so tar as it is not inconsistent with—
 - (1) the Land Registration Act, 1876. as amended by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907,‡‡
 - (ii) the Eastern Bengal and Assam Military Police Act,,
 1912, §§ or
 - (iii) the Eastern Bengal and Assam Disorderly Houses Act, 1907,†

^{*} Act VII. of 1912.

[†] E. B. & A. Act II. of 1907.

[‡] Ben. Act III. of 1884.

[§] Ben. Act II. of 1866.

Ben. Act VII. of 1876.

[¶] Ben. Act II. of 1906. ** Act. V. of 1892.

^{††} Ben. Act. III. of 1906.

^{‡‡} E. B. & A. Act I. of 1907. §§ E. B. & A. Act III. of 1912.

as the case may be, continue in force, and be deemed to have been made or issued under that Act, unless and until it is superseded by any appointment, order, rule, notification or form made or issued under that Act.

SCHEDULE I. ENACTMENTS EXTENDED TO EASTERN BENGAL.

(See section 3.)

Year.	Number.	Short title.	How far extended.
. 1	2	3	4

Bengal Acts.

1899	I.	The Bengal General Clauses Act, 1899.	The whole Act as applying to— (1) the other Acts specified in this Schedule, and (2) any Bengal Act passed after the first day of April, 1912.
1908	V.	The Bengal Local Self-Government (Amendment) Act 1908.	The whole Act.
1909	11.	The Bengal Court of Wards (Amendment) Act, 1909.	The whole Act.
010 م	. II.	The Bengal Municipal (Amendment and Validation) Act, 1910.	Sections 1 and 2
1911	11.	The Bengal Vaccination (Amendment) Act, 1911.	The whole Act.
1911	. v.	The Calcutta Improvement Act, 1911.	Section 82, and section 86 in so far as it affects section 82.

1914.

Act 1.

SCHEDULE II.

ENACTMENTS EXTENDED TO WESTERN BENGAL.

(See section 4.)

Year.	Number.	Short title.	How far extended.
1 2		3	4
		Eastern Bengal and As	sam Acts.
1907	1.	The Eastern Bengal and Assam Land Registration (Amend- ment) Act, 1907.	The whole Act.
1907	11.	The Eastern Bengal and Assam Disorderly Houses, Act, 1907	
1909	ī.	The Eastern Bengal and Assam General Clauses Act, 1909.	The whole Act, as applying to the other Acts specified in this Schedule.
1912	ш.	The Eastern Bengal and Assam Military Police Act, 1912.	The whole Act.

SCHEDULE III.

1914. Act 1.

ENACTMENTS AMENDED.

(See section 5.)

Year.	Number.	Short title.	Amendments.
I	2	3	4
		Bengal Acts.	•
1856	111.	The Bengal Legislative Coun- eil (Witneses) Act, 1866.	For the words Lieutenant-Governor of Bengal and the words Lieutenant-Governor, wherever they occur, substitute the words the Governor of Fort William in Bengal.
1876	VII.	The Land Registration Act, 1876.	In section 31, for the words the said section, where they first occur, substitute section 30.
1879	IX,	The Bengal Court of Wards Act, 1879.	For clause (a) of section 64A (which was inserted for Western Bengal by Bengal Act I. of 1906, section 10, and for Electric Bengal by E. B. and A. Act III. of 1907, section (12) substitute (a) in the Calcutta Gasette.
1885		The Bengal Local Self-Government Act, 1885.	(i) After section 29A insert the following:— 29B. Notwithstanding anything contained in any of the foregoing processions of this Chapter, every appointment to any District or Chapter. Chapter. Chapter, every appointment to any District or Chapter. Chapter, every appointment to any District or Local Board, as the case may be, made thereunder by the Commissioner, shall be subject to the administrative control of the Local Government. (ii) To section 64A add the following:— Or (c) establish scholarships for the furtherance of technical or any other special form of education:

1914, Act 1.

SCHEDULE III. - concld.

ENACTMENTS AMENDED-concld.

(See section 5.)

Year.	Namber.	Short title.	Amendments.			
ı	2	3	4			
	Bengal Acts-concld.					
1885	111.	The Bengal Local Self-Government Act, 1885—concld.	Provided that, save with the sanction of the Local Government, no such scholarship shall be tenable at any school or institution not situated within the area under the authority of the District Board.			
ū			(iii) After clause (j) of section 138, insert the following:—			
			(j4) regulating the grant of scholar- ships established under section 64A.			
1899	1.	The Bengal General Clauses Act, 1899.	To clause (6) of section 3 add or the Indian Councils Acts, 1861, 1892 and 1909, or made by the Governor in Council of Fort William in Bengal under the Indian Councils Acts, 1861, 1892 and 1909.			
	Bastern Bengal and Assam Act.					
1907	I.	The Eastern Bengal and Assam Land Registration (Amend- ment) Act, 1907.	In section 6, before alphabetical insert the.			

SCHEDULE IV.

1914.

ENACTMENTS REPEALED.

Act 1.

See section 6.

Year.	Number.	Short title.	Extent of repeal.				
1	2	3					
Bengal Regulation.							
1817	XX.	The Bengal Police Regulation, 1817.	So much as has not been repealed.				
•	Acts of the Governor-General of India Council,						
1856	XXII.	The Karatoya Tolls Act, 1856.	The whole Act.				
1892	IV.	The Court of Wards Act (Bengal) Amendment Act, 1892.	Sections 5 and 11.				
1892	v.	The Bengal Military Police Act, 1892.	The whole Act.				
Bengal Acts.							
1862	VIII.	The Beugal Zamindari Dak Act, 1862.	The whole Act, so far as it applies to Eastern Bengal.				
1876	VII.	The Land Registration Act, 1876.	In section 31, the words by clause (c) of the last preceding section to give notice to the Collector of the establishment of any new village, or.				
1885	* '111,	The Bengal Local Self- Government Act, 1885,	(i) In the proviso to section 9, the letter and words (b) paid license-tax in respect of a trade, dealing or in- dustry carried on within such area.				
	•	-	(ii) In the proviso to section 13, the letter and words (b) paid a license-tax of not less than twenty rupees in respect of a trade, dealing or industry carried on within the area under the authority of such Local Board.				
			(iii) In section 117 (3), the words and figures or, where the Chota Nagpur Rural Police Act, 1887, is in force, under that Act.				
			(iv) In section r18C (3),—				

1914. Act 1.

SCHEDULE IV .- concld.

ENACTMENTS REPEALED -concld.

(See section 6.)

·						
Year.	Number.	Short title.	Extent of repeal.			
1	2	. 3				
Bengal Acts—concid.						
1885	111.	The Bengal Local Self-Government Act, 1885—concld.	(a) the words and figures or, where the Chota Nagpur Rural Police Act, 1887, is in force, the provisions of sections 9, 10, 13, 15 to 18, 20, 21, 34 and 36 of that Act, an i			
			(b) clause (c) of the proviso			
1904	III.	The Bengal Settled Estates Act, 1904.	In section 36, the words and also in such vernacular Gazettes (if any) as the Local Government may direct.			
1906	11.	The Bengal Land Registration (Amendment) Act, 1906.	The whole Act.			
1906	111.	The Bengal Disorderly Houses Act, 1906.	The whole Act.			
1909	I.	The Indian Lunatic Asylums (Amendment) Act, 1909.	The whole Act.			
Eastern Bengal and Assam Acts.						
1907	1.	The Eastern Bengal and Assam Land Registration (Amendment) Act, 1907.	In section 2 (1) the word Bengal.			
1011	I.	The Eastern Bengal and Assam Court of Wards (Amendment) Act, 1911.	The whole Act.			

BEN. ACT NO. II. OF 1914.

1914. Act 2.

The Bengal Municipal (Sanitary Officers) Act. 1914.

[Published in the Calcutta Gazette on the 18th FEBRUARY, 1914.

An Act to provide for the appointment of Sanitary Officers for certain Municipalities outside Calcutta.

WHEREAS it is expedient further to amend the Bengal Municipal Act, 1884,* in order to provide for the appointment of Sanitary Officers in certain Municipalities:

It is hereby enacted as follows:-

Short title.__

1. This Act may be called the Bengal Municipal (Sanitary Officers) Act, 1914.

Insertion of Part XIB, in Bengal Act III of 1884

2. After Part XI. A. of the Bengal Municipal Act, 1884,* the following shall be inserted, namely:-

" PART XIB.

SANITARY OFFICERS.

- Power to declare this Part to be in force in any Municipality.
- "340C. (1) The Local Government may, by notification published in the Calcutta Gasette, announce its intention to declare this Part to be in force in any Municipality.
- (2) If the Commissioners or any ratepayer of any such Municipality object or objects to this Part being declared in force in the Municipality, they or he may, within a period of two months from such publication, submit such objection in writing, through the District Magistrate, to the Local Government; and the Local Government shall consider all objections so sent.
- (3) After the expiration of the said period the Local Government, if no objections have been so sent, or if it considers that the objections so sent are insufficient, may, by a like notification, make the proposed declaration.
- (4) The substance of every notification under sub-section (1) or sub-section (3) shall be translated, deposited, posted and proclaimed, within the Municipality affected, in the manner prescribed by section 354.
- "340D. (1) Notwithstanding anything contained in section 46. the Commissioners of every Municipality Appointment of Sanitary Officers. in which this Part is in force shall from time to time, at a meeting, appoint for the Municipality-

1670 BEN. MUNICIPAL (SANITARY OFFICERS) ACT.

1914. Act 2.

- (a) a Health Officer, or
- (b) a Health Officer and one or more Sanitary Inspectors, or
- (c) one or more Sanitary Inspectors,

as the Local Government may, by notification in the Calcutta Gazette, direct; such Health Officer to be of such class, and such Sanitary Inspectors to possess such qualifications, as may be so directed.

- (2) The provisions of sub-section (1) shall not apply to any Municipality the income of which falls below ten thousand rupees a year.
- "349E. The Local Government shall from time to time fix the Salary and allowances of salaries to be paid to Health Officers and Sanitary Officers.

 Sanitary Inspectors out of the Municipal Fund, and the allowances to be granted to them during absence on leave.

Power to make rules. "394F. The Local Government may from time to time make rules prescribing—

- (a) the qualifications of candidates for employment as Health Officers and Sanitary Inspectors respectively; and
- (b) the division of Health Officers and Sanitary Inspectors into classes or grades according to their qualifications.
- "349G. When a Health Officer has been appointed for any
 Unwholescme water.

 Wunicipality, the power conferred by section 199A shall be exercisible by him as
 well as by the Chief Civil Medical Officer of the district.
- "349H. Every section of this Act which relates to Municipal Application of Act to Officers or servants shall, so far as it may Sanitary Officers. be applicable, apply to the officers referred to in section 349D:

Provided that no Health Officer appointed thereunder shall be dismissed without the sanction of the Local Government."

BEN. ACT NO. III, OF 1914.

1914. Aot 8

The Doveton Trust Act, 1914.

[PUBLISHED IN THE CALCUTTA GAZETTE ON THE 18TH FEBRUARY, 1914.]

An Act to abolish the Parental Academic Institution and Doveton (ollege and Doveton Institution for Young Ladies, and to provide for the application of the property and funds thereof as nearly as possible in accordance with the intentions of the founders.

WHEREAS, on the first day of March, 1823, an Educational Society was established in Calcutta, under the designation of "The Parental Academic Institution," with the object of establishing one or more schools under its own control in order to procure the means of affording to youth the best education of which existing circumstances would admit, and, as far as the state of funds would allow, to provide education for the orphans of members dying not possessed of property sufficient to educate their children;

And whereas the designation of the said Society was changed in the year 1855 to that of "The Parental Academic Institution and Doveton College;"

And whereas the said Society was registered as a Society under the Societies Registration Act, 1860,* on the twenty-ninth day of August, 1881;

And whereas the designation of the said Society was again changed in the year 1886, on the incorporation therewith of "The Young Ladies' Institution," to that of "The Parental Academic Institution and Doveton College and Doveton Institution for Young Ladies;"

And whereas various properties and funds have from time to time been vested in the Governing Body of the said Society, and in other persons, for the benefit of, or in trust for, the said Institution or pupils to be educated therein;

And whereas the said Institution is now governed by certain persons claiming to be a Committee duly elected or appointed under an order made by the High Court, Calcutta, on the eighth day of April, 1907;

And whereas it appears to the Governor in Council that the said Committee are unable satisfactorily to manage the said Institution according to the intentions of its founders, and that portions of the property and funds of the Institution have been

wasted away in litigation and by mismanagement, and that it is expedient that the Legislature should intervene in order to prevent further waste and mismanagement;

And whereas it appears to the Governor in Council that the objects of the founders of the said Institution would best be met by providing for the application of its property and funds, under the direction of the Government, to the education of Christian children of what is known as the Domiciled Community of Bengal;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Doveton Trust Act, 1914.

Abolition of the Doveton Institution.

2. The "Parental Academic Institution and Doveton College and Doveton Institution for Young Ladies" is hereby abolished.

- 3. All property, moveable and immoveable, which is vested in vesting and application the Managing Committee of the said Institution, or in any other person, for the benefit of the said Institution or anywise in trust therefore, and all sums standing to the credit of the said Institution, shall vest in the Accountant-General, Bengal, as bare trustee, and shall be applied—
 - (a) to the discharge of all debts and liabilities properly payable out of, or chargeable upon, the property or funds of the said Institution, and
 - (b) to making provision for the education of Christian children of what is known as the Domiciled Community of Bengal, by the granting of scholarships, by grants-in-aid to Institutions intended for the education of such children, or in such other similar manner as to the Local Government may seem reasonable and proper.
- 4. The Local Government shall, by notification in the Calcutta

 Appointment of administrator, and transfer of powers ment (not being the Accountant-General, to him.

 Bengal) by the name of his office to administer the property and sums referred to in section 3; and all powers in respect of such property and sums, which have hitherto been exercisible by the said Managing Committee or by any other person, may henceforth be exercised by such officer, subject to the control of the Local Government.

^{* 55 &}amp; 56 Vict., c. 14.

Power to make rules.

5. (1) The Local Government may make rules to carry out the purposes of this Act.

1914 Act 3

- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—
 - (a) the method of applying property and funds held under this Act to the purpose specified in clause (b) of section 3;
 - (b) the securities in which tunds held under this Act and not required for immediate disbursement shall be invested;
 - (c) the accounts to be kept by the Accountant-General, Bengal, and by the officer appointed under section 4, and the mode in which such accounts are to be audited:
 - (d) the periodical publication of a list of all property and funds held under this Act, and of an abstract of all accounts kept hereunder;
 - (e) the fees (it any) to be paid to the Government in respect of property held and administered under this Act.
- (3) The power conferred by this section to make rules is subject to the condition of the rules being made after previous publication.
- (4) All rules made under this section shall be published in the Calcutta rezette, and on such publication shall have effect as if enacted in this Act.
- 6. (1) No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government.
- (2) No suit shall be instituted against the Accountant-General, Bengal, or any officer appointed under section 4, except—
 - (a) for divesting him of property on the ground of its not being subject to this Act, or
 - (b) for making him chargeable with or accountable for the loss or misapplication of any property vested in or managed by him under this Act, or the income thereof, where the loss or misapplication has been occasioned be or through his wilful act, neglect or default.

1914. Act 4.

BEN. ACT NO. IV. OF 1914.

The Calcutta Municipal (Loans) Act, 1914.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 11TH MARCH, 1914.]

An Act to amend the provisions of the Calcutta Municipal Act, 1899,* relating to Loans.

WHEREAS it is expedient to amend the provisions of the Calcutta Municipal Act, 1899,* relating to Loans;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,† to the passing of this Act;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Calcutta Municipal (Loans) Act, 1914.

New Chapter X. for Ben. Act III. of 1899.

2. For Chapter X. of the Calcutta Municipal Act, 1899,* the following shall be substituted, namely:—

"CHAPTER X.

"LOANS.

- "128. (1) The Corporation may, in pursuance of a resolution Power of Corporation to passed at a special meeting, from time to borrow money. time raise a loan, by the issue of debentures, on the security of all or any of the rates, taxes, fees and dues authorised by this Act, of any sums of money which may be required—
 - (a) for the construction of works under this Act, or
 - (b) for the acquisition of land for the purposes of this Act, or
 - (c) to pay off any debt due to the Government, or
 - (d) to repay a loan previously raised under this Act:

Provided as follows:-

- (i) no loan shall be raised without the previous sanction of the Local Government, or (if the loan exceeds Rupees 5,00,000 or is to be repaid after a period exceeding thirty years) the Government of India;
- (ii) the rate of interest to be paid for any loan, and the terms (as to the time and method of repayment, and

^{*} Ben. Act III. of 1899.

otherwise) upon which any loan is to be raised, shall be subject to the approval of the Local Government, or (if the loan exceeds Rs. 5,00,000 or is to be repaid after a period exceeding thirty years) the Government of India;

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- (iii) the period within which a loan is to be repaid shall in no case exceed sixty years.
- (2) When any sum of money has been borrowed under subsection (1),—
 - (i) no portion thereof shall, without the previous sanction of the Local Government, be applied to any purpose other than that for which it was borrowed, and
 - (ii) no portion of any sum of money borrowed under clause (a) of sub-section (i) shall be applied to the payment of salaries or allowances to any municipal officers or servants, other than those who are exclusively employed upon the works for the construction of which the money was borrowed.
- "129. The Corporation shall, at a special meeting to be held

 Determination of sums on or before the twenty-second day of
 to be borrowed.

 March in every year, after considering the
 General Committee's proposals in this behalf, determine, subject
 to the provisions of this Act, what sums of money (if any) shall be
 borrowed under section 128 in the next ensuing financial year.
- "130. Notwithstanding anything hereinbefore contained, the Limit to borrowing borrowing powers of the Corporation shall be limited so that the sums payable under this Act during the said financial year for interest and for the maintenance of Sinking Funds [including the payments prescribed by sub-clause (c) of section 1381 shall not exceed ten per cent. on the annual rateable value of buildings and land as determined under Chapter XII.
- "131. (1) All debentures issued under this Act shall be in Form, exchange, transfer such form, and signed by such person, as and effect of debentures the Corporation may from time to time prescribe with the previous sanction of the Local Government, or (in the case of a loan raised out of India) the Government of India.
- (2) The holder of any debenture in any form prescribed under sub-section (1) may obtain in exchange therefor, upon such terms as the Corporation may from time to time determine, a debenture in any other form so prescribed.
 - (3) The holder of any debenture issued by the Corporation under the authority of any prior enactment may obtain in exchange therefor, upon such terms as the Corporation may from time to

1914. time determine, a debenture in a form prescribed under subAct 4. section (1).

- (4) Every debenture issued by the Corporation under this Act shall be transferable in such manner as shall be therein expressed.
- (5) The right to sue in respect of the moneys secured by any such debentures, or by any debentures issued by the Corporation under the authority of any prior enactment, shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.
- "132. All coupons attached to debentures issued under this Signature of coupons at Act shall bear the signature of the Vice-tached to debentures. Chairman; and such signature may be engraved, lithographed or impressed by any mechanical process.
- "133. When any debenture or security issued under this Act Payment to survivors of is payable to two or more persons jointly joint payees. and either or any of them dies, then, notwithstanding anything in section 45 of the Indian Contract Act, 1872,* the debenture or security shall be payable to the survivor or survivors of such persons:

Provided that nothing in this section shall affect any claim by the representative of a deceased person against such survivor or survivors.

- "134. Where two or more persons are joint holders of any Receipt by joint holder debenture or security issued under this Act, for interest or dividend. any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Corporation by any other of such persons.
- "135. Every loan raised by the Corporation under section 128

 Repayment of loans raised after the commencement of the Calcutta

 Municipal (Loans) Act, 1914, shall be repaid within the time approved under proviso (it)

 to sub-section (1) of that section, and by such of the following methods as may be so approved, namely:—
 - (a) from a Sinking Fund established under section 136 in respect of the loan, or
 - (b) partly from the Sinking Fund established under section 136 in respect of the loan, and (to the extent to which that Sinking Fund falls short of the sum required for the repayment of the loan) partly from money borrowed for the purpose under clause (d) of section 128.

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"136. (1) Whenever the repayment from a Sinking Fund of Establishment and mainal a loan referred to in section 135 has been approved under proviso (11) to sub-section (12) of section 128, the Corporation shall establish such a Fund and shall pay into it on the first day of every half-year (commencing from the half-year next after that in which the loan is taken), until the loan is repaid, a sum so calculated that, if regularly paid, it would, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the loan at the time approved.

- (2) The rate of interest, on the basis of which the sum referred to in sub-section (1) shall be calculated, shall be such as may be prescribed by the Government of India.
- (3) A separate Sinking Fund shall be established in respect of each loan referred to in section 135.
- "137. Notwithstanding anything contained in section 136, if

 Power to discontinue at any time the sum standing at credit of
 payments into Sinking the Sinking Fund established for the refund.

 payment of any loan is of such amount that,
 if allowed to accumulate at the rate of interest prescribed
 under sub-section (2) of that section, it will be sufficient to repay
 the loan at the time approved under proviso (ii) to sub-section (1)
 of section 128, then, with the permission of the Local Government,
 further half-yearly payments into such Fund may be discontinued.

Provisions regarding loans raised between the 1st April, 1881, and the commencement of the Calcutta Municipal (Loans) Act, 1914.

- "138. In respect of all loans raised by the Corporation under this Act between the 1st April, 1881, and the commencement of the Calcutta Municipal (Loans) Act, 1914, the following provisions shall have effect, namely:—
- (1) The Corporation shall maintain a Sinking Fund in respect of all such loans, and shall pay into such Fund the following sums:—
 - (a) on the first day of every half-year, commencing from the 1st July, 1914, in respect of such of the said loans as were repaid before the 31st March, 1914, a sum representing four per cent. per annum on the amount of each of such loans, such payments to be continued, in the case of each of such loans, until the expiry of a period of forty-seven years from the date on which the loan was raised, and
 - (b) on the first day of every half-year, in respect of such of the said loans as have not been repaid before the 31st March, 1914, a sum representing one per cent. per annum on the amount of each of such loans, until the loan is repaid, and

1914. Act 4.

- (c) on the first day of every half-year, for a period of ten years, with effect from the 1st July, 1914, the sum of Rupees sixty-six thousand.
- (2) When any of the said loans hereafter falls due for repayment, it shall be repaid—
 - (1) from the sums which have accumulated in the Sinking Fund maintained under clause (1) and in Sinking Fund A maintained before the commencement of the Calcutta Municipal (Loans) Act, 1914, to the extent to which half-yearly payments of one per cent. per annum on the amount of any such loan would have accumulated at three per cent. compound interest from the date of its commencement, and
 - (ii) to the extent to which the sums referred to in subclause (i) of this clause fall short of the sum required for repayment of the loan—from money to be borrowed by the Corporation for the purpose, for the period by which the term of the original loan falls short of forty-seven years.
- (3) A separate Sinking Fund shall be established in respect of each amount borrowed under sub-clause (i) of clause (2) of this section, and the provisions of sections 136 and 137 shall apply to each such Sinking Fund.
- Transfer of securities and cash jointly or severally held, before the commencement of the Calcutta Municiand cash to the Corporation.

 The Corporation of the Calcutta Municipal (Loans) Act, 1914. By the Secretary to the Government of Bengal in the Financial Department and the Accountant-General, Bengal, as Trustees for and in respect of Sinking Fund A referred to in sub-clause (i) of clause (a) of section 138, shall forthwith be transfered by them to the Corporation, and the Corporation shall hold the same as part of the Sinking Fund established under section 138.
- "140 (1) Notwithstanding anything to the contrary conPower of Corporation to tained in this Act, the Corporation may
 consolidate their loans. consolidate all or any of their loans, and for
 that purpose may invite tenders for a new loan (to be called
 'the Calcutta Municipal Consolidated Loan, 19),' and invite
 holders of municipal debentures to exchange their debentures for
 scrip of such loan.
- (2) The terms of every such consolidated loan, and the rates at which exchange into such consolidated loan shall be permitted, shall be subject to the prior approval of the Government of India.

(3) The period for the extinction of any such consolidated loan shall not, without the sanction of the Government of India, extend beyond the furthest date within which any of the loans to be consolidated would otherwise be repayable.

1014. Act 4.

- (4) The Corporation shall provide for the repayment of every such consolidated loan by establishing a Sinking Fund therefor.
- (5) The provisions of sections 136 and 137 shall apply to each Sinking Fund established under sub-section (4):

Provided that, in calculating the sum to be paid into any such Sinking Fund in pursuance of section 136, any sums transferred to that Fund in pursuance of proviso (1) or proviso (11) to section 141C shall be taken into account.

"141. The time for the repayment of any money borrowed
Time for repayment of under this Act for the purpose of extinguishmoney borrowed to extinguish previous loan.
India, extend beyond the unexpired portion of the period for which
such previous loan was sanctioned.

Investment of Sinking Funds.

"141A. (1) All money paid into a Sinking Fund shall as soon as possible be invested by the Corporation in—

- (a) Government securities, or
- (b) securities guaranteed by the Government, or
- (c) Calcutta Municipal debentures, or
- (d) debentures issued by the Commissioners for the Port of Calcutta, or
- (e) debentures issued by the Trustees for the improvement of Calcutta, and shall be held by the Corporation for the purpose of repaying from time to time the debentures issued by it,
- (2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the appropriate Sinking Fund and invested in the manner prescribed by sub-section (1).
- (3) Moneys standing at credit of two or more Sinking Funds may, at the discretion of the Corporation, be invested together as a common fund, and it shall not be necessary for the Corporation to allocate the securities held in such investments among the several Sinking Funds.
- (4) Any investment made under this section may from time to time, subject to the provisions of sub-section (1), be varied or transposed.

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Power of Corporation to reserve a protion of loan debentures for investment of Sinking Funds.

" 141B. (1) For the purpose of investing any portion of its funds (including Sinking Funds) the Corporation may, with the previous sanction of the Government of India, reserve and set apart for issue at par to and in the name of 'the Chairman

of the Corporation of Calcutta (on behalf of the Corporation),' any portion of the debentures to be issued on account of any loan, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

- (2) The issue of any such debentures to the Chairman, as aforesaid, shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.
- (3) The purchase by, or the transfer, assignment or endorsement to the Corporation, or to the Chairman on behalf of the Corporation, of any debenture issued by the Corporation shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person.
- "141C. Until any loan is wholly repaid, the Corporation shall Application of Sinking not apply the Sinking Fund established in Funds. respect of that loan to any purpose other than the repayment of that loan:

Provided that—

- (i) when any loan, or part thereof, which was raised after the commencement of the Calcutta Municipal (Loans) Act, 1914 has been consolidated under section 140, the Corporation shall transfer to the Sinking Fund established for such consolidated loan the sum standing at credit of the Sinking Fund of the original loan, or, it part only of a loan has been consolidated, then such part of the sum standing at credit of the Sinking Fund of the original loan as is proportionate to the amount of the original loan which is incorporated in the consolidated loan; and
- (ii) when any loan, or part thereof, which was raised before the commencement of the Calcutta Municipal, (Loans) Act, 1914, has been consolidated, the Corporation shall transfer such amounts as the Government of India may direct from the Sinking Fund maintained under clause (1) of section 138 and from Sinking Fund A maintained before the commencement of the said Act to the Sinking Fund established for consolidated loans under section 140, sub-section (4).

Annual statement by Chairman. by condition of every financial year, prepare a statement showing—

1914. Act 4.

- (a) the amount which has been invested during the year under section 141 A,
- (b) the date of the last investment made previous to the submission of the statement,
- (c) the aggregate amount of the securities then in the hands of the Corporation, and
- (d) the aggregate amount which has, up to the date of the statement, been applied under section 141C in or towards repaying loans.
- (2) Every such statement shall be laid before a meeting of the Corporation and published in the Calcutta Gazette.

Priority of payments for interest and repayment of loans over other payments. shall be made in priority to all other payments due from the Corporation.

- "141F. (1) All Sinking Funds established under this Act shall Annual examination of be subject to annual examination by the Ac-Sinking Funds. countant-General, Bengal, who shall ascertain whether the cash and the current value of the securities at credit of such Funds are actually equal to the amount which would have accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.
- (2) The Corporation shall forthwith pay into any Sinking Fund any amount which the Accountant-General may certify to be deficient, unless the Government of India specially sanction a gradual readjustment.
- (3) If the cash and the current value of the securities at credit of any Sinking Fund are more than equal to the amount which shuld have accumulated in the circumstances described in sub-section (1), the Accountant-General shall certify the amount of such excess sum, and the Corporation may thereupon transfer the excess sum to the General Fund.
- (4) If any dispute arises as to the accuracy of any certificate made by the Accountant-General under sub-section (2) or sub-section (3), the Corporation may, after making the payment or transfer therein mentioned, refer the matter to the Local Government, whose decision shall be final.

1914. Act 4. "141G. (1) If any money borrowed by the Corporation from the Government, whether before or after the Funds for recovery of money borrowed from the Government of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government may attach the Municipal Funds or any of them.

(2) After such attachment, no person except an officer appointed in this behalf by the Local Government shall in any way deal with the attached Funds; but such officer may do all acts in respect thereof which any municipal authority, officer or servant might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the arrear and of all interest and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the Funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the Funds before any part of the proceeds is applied to the satisfaction of the debt due to the Government.

"141H. If the Corporation fails to make any payment as Attachment of Municipal required by section 141F., sub-section (2), Funds for securing payment into Sinking Funds. Municipal Funds or any of them; and the provisions of section 141G, sub-section (2) shall, with all necessary modifications, be deemed to apply."

Repeal of Schedule VI. to Ben. Act III. of 1899.

8. Schedule VI. to the Calcutta Municipal Act, 1899,* is hereby repealed.

^{*} Ben. Act 111, of 1899.

BEN. ACT NO. V. OF 1914.

The Chittagong Port Act, 1914.

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BEN. ACT. NO. V. OF 1914.

The Chittagong Port Act, 1914.

[Published in the "Calculta Gazette" on the 13th May, 1914.]

An Act to consolidate and amend the law relating to the Port of Chittagong.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Port of Chittagong;

And Whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows:-

CHAPTER 1.

PRELIMINARY.

Short tit le and commencement.

- 1. (1) This Act may be called "The Chittagong Port Act, 1914;" and
- (a) It shall come into force on such date as the Local Government may by notification direct.

Repeals.

- 2. The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.
- Commissioners the successors to Commissioners constituted under Bengal Act IV. of 1847.

 1887,"† shall be deemed to have been incurred, entered into are some time and things engaged to be done by, with or for the Commissioners of the Port of Chittagong constituted under "The Chittagong Port Commissioners Act, that is a successor of the Port of Chittagong Port Commissioners Act, that is a successor of the Port of Chittagong Port Commissioners Act, that is a successor of the Port of Chittagong Port Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by, with or for the Commissioners and things engaged to be done by the commissioners and things engaged to be done by the commissioners and things engaged to be done by the commissioners and things engaged to be done by the commissioners and things engaged to be done by the commissioners and things engaged to be done by the commissioners and things engaged to be done by the commissioners and things engaged to be done by the commissioners and the co

and all rates and sums of money due to the Commissioners, constituted under "The Chittagong Port Commissioners Act, 1887,"† shall be deemed to be due to the Commissioners constituted under this Act;

and all suits and other legal proceedings, civil or criminal, instituted or which might but for the passing of this Act have been instituted by or against the Commissioners constituted under "The Chittagong Port Commissioners Act, 1887,"† may be continued or instituted by or against the Commissioners constituted by this Act.

^{* 55} and 56 Vict., c. 14.

Definitions.

4. In this Act, unless there is anything repugnant in the subject or context,—

1914. Act 5.

- "The Commissioners." shall mean "the Commissioners for the Port of Chittagong" hereinafter incorporated:
 - "Commissioner."
- (2) "Commissioner" shall mean a member of the said Corporation;
- (3) "dock" shall include all basins, cuts, quays, wharves, ware-houses, tramways and other works and things appertaining to any dock;
 - "Goods."

- (4) "goods" shall include wares and merchandise of every description;
- (5) "high-water mark" shall mean a line drawn through the highest points reached by ordinary spring-tides at any season of the year;
- (6) "land" shall include the bed of the river below high-"Land." water mark, and also things attached to the earth or permanently fastened to things attached to the earth:
- (7) "low-water mark" shall mean the lowest point reached at ordinary ebb-spring-tides at any season of the year:
- (8) "master," when used in relation to any vessel, means any person (not being a pilot or harbour-master) having for the time being the command or charge of such vessel;
 - "Owner."

 (9) "owner" shall include also any agent to whom a vessel is consigned;
- (10) "pier" shall include any stage, stairs, landing-place, jetty, floating-barge or pontoon and any bridges or other works connected therewith;
- "Pilot." shall mean a person for the time being authorised by the Local Government under section 3 of the Indian Ports Act, 1908,* to pilot vessels to, from, or within, the port;

^{*} Act XV. of 1908,

1914. Act 5.

- (12) "port" shall mean the Port of Chittagong as for the time being defined for the purposes of this Act;
- (13) "vessel" shall include any ship, barge, boat, raft or craft,

 "Vessel." or any other thing whatever,
 designed or used for the transport upon water of passengers
 or goods;
- "Wharf" shall include any bank of the river which may
 be improved to facilitate the
 loading or unloading of goods,
 and any foreshore used for the same, and any wall
 enclosing or adjoining such bank or foreshore.
- 5. (1) The Local Government may by notification, define the limits of the port for the purposes of this Act; and may from time to time, by a like notification, alter such limits.
- (2) Such limits may extend to any part of the navigable approaches to Chittagong, and may include any docks, wharves, quays, stages, jetties, piers, tramways, warehouses, sheds and other works made on behalf of the public for the convenience of traffic, for the safety of vessels or for the improvement, maintenance and good government of the port or river, whether within or without highwater mark, and (subject to any right of private property therein) any portion of the shore or bank within fifty yards of highwater mark.

CHAPTER II.

CONSTITUTION OF THE COMMISSIONERS.

- 6. (1) The duty of carrying out the provisions of this Act
 Commissioners a body shall, subject to such conditions and limitations as are hereinafter contained, be
 vested in a body of Commissioners to be called "the Commissioners for the Port of Chittagong."
- (2) Such body shall be a body corporate and have perpetual succession and a common seal, and may sue and be sued in its corporate name, and, in addition to the powers expressly conferred by this Act, shall have power, subject to the provisions of this Act, to do all other things necessary for the purposes of its constitution.

Number of Commissioners, sioners.

7. There shall be nine Commissioners, that is to say,—

- (a) the Chairman,
- (b) the Vice-Chairman,

(c) the Agent of the Assam-Bengal Railway for the time 1914. being,

Act 5.

- (d) three elected Commissioners, and
- (e) three nominated Commissioners:

Provided that not more than four of the nine Commissioners shall be persons holding salaried offices under Government.

- 8. (1) Of the elected Commissioners, two shall be elected by the Chamber of Commerce at Chittagong, Election of Commissioners. and one by the Chittagong Indian Merchants' Association or by such other body or bodies or firms as the Local Government shall from time to time select as best representing the local Indian community.
- (2) The elections shall be made in such manner as may be determined by the electing bodies, subject to the approval of the Local Government.
- 9. In the event of default being made by the electing body, Nomination by Govern. bodies or firms referred to in section 8 in ment in default of election. electing any Commissioner within the period prescribed by section 14, it shall be lawful for the Local Government to appoint a person; and the person so appointed shall be deemed to be a Commissioner as if he had been elected by such body, bodies or firms.

Appointment of nominated Commissioners by Local Government.

- 10. The nominated Commissioners, the Chairman, and the Vice-Chairman shall be appointed by the Local Government.
- 11. (1) If a commissioner be appointed as such by virtue of office, the person for the time being holding Tenure of office. the office shall be a Commissioner until the Local Government shall otherwise direct.
- (2) The Chairman and the Vice-Chairman shall continue to hold office until the Local Government shall otherwise direct,
- (3) Commissioners appointed by name or elected shall, subject to the provisions hereinafter in this Chapter contained, hold office for a term of two years and may, on the expiration of such term, be re-appointed or re-elected, but the Local Government may at any time accept the resignation of any such Commissioner.
- (4) Notwithstanding the expiration of the term of two years mentioned in sub-section (3), a Commissioner appointed by name or elected shall continue to hold office until the vacancy caused by the expiration of the said term has been filled up as provided in section 14.

1914. Act 5. Disqualification for office.

12. No person shall be qualified to be a Commissioner during such time as he—

- (a) is an undischarged insolvent, or
- (b) holds any office or place of profit under this Act, except the office of Chairman, or Vice-Chairman, or,
- (c) save with the sanction of the Local Government, has, directly or indirectly, any share or interest in any work done by order of, the Commissioners, or in any contract, or employment with, by or on behalf of the Commissioners, or
- (d) is under sentence of imprisonment;

and every Commissioner becoming so disqualified shall thenceforth cease to be a Commissioner and his office shall thereupon become vacant:

Provided always that no Commissioner shall vacate his office by reason only of—

- (i) his being a shareholder in or a member or emplyé of any company (registered under the provisions of any Act for the registration of joint stock companies passed by any Indian Legislature or by the Parliament of the United Kingdom, or incorporated by Act of Parliament, Royal Charter, or otherwise,) with which the Commissioners may enter into any contract, or
- (ii) his being interested as a debenture-holder in any loan of money to the Commissioners, or
- (iii) his being interested in any purchase or lease of land or premises, the sale or lease of which the Commissioners may determine on at a meeting under the provisions of this Act, or
- (iv) his being interested in any agreement under which facilities may be granted for the landing or shipment of goods in return for stipulated income guaranteed to the Commissioners in consideration of their undertaking to construct or provide such facilities, or
- (v) his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Commissioners may be inserted.
- Absence from meetings. pointment by name as a Commissioner shall be absent for more than three consecutive months from the meetings of the Commissioners without having previously obtained the permission in that behalf of the Commissioners, or who shall with such permission be absent from the

meetings for a period exceeding six months shall thenceforth cease to be a Commissioner and his office shall thereupon become vacant.

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- 14. All vacancies in the number of Commissioners, whether Vacancies to be filled with- elected or appointed under this Act, shall in one month. be filled up by election or appointment, as the case may be, within one month, unless the Local Government, for reasons to be recorded in writing, think fit to extend that period.
- 15. (1) A temporary vacancy caused by the absence on leave of any Commissioner for a period of not less than three mohths nor more than six months may, if the Local Government think fit, be filled up by election or appointment, as the case may be, in the manner hereinbefore in this Chapter provided.
- (a) A person elected or appointed under this section shall hold office until the expiry of the leave granted to the Commissioner whose place he fills.
- Casual vacancies

 a Commissioner occasioned during the period of two years mentioned in section 11, subsection (3), by the death, resignation, disqualification or absence of any Commissioner shall be filled up as hereinbefore in this Chapter provided by election or appointment, as the case may be, but the Commissioner so elected or appointed shall retain his office so long only as the vacating Commissioner would have retained it if such vacancy had not occurred.
- 17. It shall be lawful for the Local Government, by an order, Remuneration of Chair- from time to time to determine whether any, man, Vice-Chairman and what, salary and allowances shall be Commissioners paid to the Chairman and Vice-Chairman, respectively, and whether any, and what, fees shall be paid to the Commissioners for attendance at meetings at which a quorum shall be present, and business shall be transacted.

Leave of absence of the Chairman and Vice-Chairman.

18. (1) The Local Government may grant leave of absence to the Chairman and Vice-Chairman, and may appoint persons to act for them during their absence on leave.

- (a) Any person appointed to act under sub-section (1) shall, while so acting, be deemed for the purposes of this Act to be the *Chairman or Vice-Chairman, as the case may be.
- (3) The Local Government may grant such leave allowances to the Chairman and Vice-Chairman as they think fit.
- 19. All elections and appointments made and all resignations

 Notification in the Calcutta Gasette of elections fied in the Calcutta Gasette, and shall take and appointments.

 effect from the date of such notification.

1914. Act 5.

CHAPTER III.

CONDUCT OF BUSINESS BY THE COMMISSIONERS.

- 20. (1) The Commissioners may from time to time, in accordPower to Commissioners ance with a resolution passed at a meeting, to appoint committees. appoint committees of their number, for carrying into effect any part of the provisions of this Act, with such powers, and under such instructions, directions or limitations as by such resolution shall be defined.
- (2) On any such committee three members shall be a quorum.
- (3) The Commissioners in meeting may alter or discontinue any such committee.

Ordinary and special 21. (1) The Commissioners shall ordinarily meet, for the transaction of business, at least once in every month.

- (2) The Chairman, or, in the event of his illness or absence from Chittagong, the Vice-Chairman may, whenever he thinks fit, and shall, upon a requisition in writing signed by not less than three Commissioners, convene a meeting of the Commissioners for the transaction of any special business.
- (3) Meeting s convened under sub-section (2) are special meetings; all other meetings are ordinary meetings.
- 22. (1) At least three days' notice shall ordinarily be given of Notice and place of meet.

 Notice and place of meet.

 meetings of the Commissioners, and the notice shall state the nature of the business to be transacted.
- (2) Notwithstanding anything contained in sub-section (1), when the Chairman or Vice-Chairman, as the case may be, certifies that the business to be transacted at a special meeting is of an urgent nature, such meeting may be held after such notice as, in the opinion of the Chairman or Vice-Chairman, the urgency of the case permits.
- (3) Meetings shall ordinarily be held at the office of the Commissioners.
- Representation of Agent, Railway from Chittagong, an officer of the Assam-Bengal Railway, by other officer.

 Assam-Bengal Railway, by other officer.

 Railway from Chittagong, an officer of the Railway, nominated by the Agent, may accommissioner.

 Railway, nominated by the Agent, may accommissioner, and attending, shall be deemed to be a Commissioner.
- (2) Before an officer so nominated proceeds to exercise any of the functions contemplated by sub-section (1), the fact of nomination shall be communicated by the Agent to the Chairman.

24. (1) The Chairman and Vice-Chairman shall, unless prevented by sickness or other reasonable cause, attend all meetings of the Commissioners.

1914 Act 5.

- (2) The Chairman, or, in his absence, the Vice-Chairman, shall preside at every such meeting.
- (3) In the absence of both the Chairman and Vice-Chairman, the Commissioners present at any meeting may elect one of their number to preside.

Conduct of business at meetings.

25. At all meetings of the Commissioners the business shall be conducted in accordance with the following rules:—

- (a) the quorum necessary for the transaction of business shall be such number, not less than four, as the Commissioners may from time to time prescribe; but no Commissioner who is prohibited as hereinafter in this section provided from voting in any proceedings shall be counted in the quorum so far as regards such proceedings;
- (b) at ordinary meetings any business may be transacted of which due notice has been given:
 - Provided that any other business may be transacted if twothirds of the total number of Commissioners present resolve that it is of an urgent nature;
- (c) at special meetings no business shall be transacted other than the special business for the consideration of which the meeting was specially called;
- (d) all questions which may come before the Commissioners at any meeting shall be decided by a majority of votes. Each Commissioner shall have one vote; and, in case of equality of votes, the President shall have a second or casting vote:
 - Provided that no Commissioner shall at any meeting vote on any matter (other than a proposal to issue a notification or order under section 43, section 44 or section 45) in which he has, directly or indirectly, by himself or his partner, any share or interest such as is described in any of the provisoes to section 12 or in which he is interested either professionally on behalf of a client or as agent for any person other than the Government, a local authority, or a Railway Company;
- (e) the President may, with the consent of the meeting adjourn the meeting from time to time;

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- (f) minutes of the proceedings at all meetings of the Commissioners shall be drawn up after each meeting, and shall be signed by the President and at least one other Commissioner who was present at such meeting. A copy of all such minutes shall, as soon as conveniently may be, be transmitted to the Local Government;
- (g) another copy of such minutes, except such portions thereof as the Chairman may in any particular case direct, shall be open to the inspection of the public.
- 26. The Commissioners in meeting may from time to time

 By-laws for the conduct make by-laws, consistent with this Act, for any of the following purposes, namely:—
 - (a) for regulating the time and place of their meetings;
 - (b) for the conduct of the business of the Commissioners;
 - (c) for division of the duties of the Commissioners;
 - (d) for the guidance of persons employed by them under this Act; and
 - (e) generally for otherwise carrying out the provisions of this Chapter.
- 27. All the powers, authorities and duties, in and by this Act Powers of Chairman or conferred or imposed upon the Commission-Vice-Chairman ers, may be exercised and performed by the Chairman or Vice-Chairman, save the powers, authorities and duties by this Act, or by any rule, by-law or order made under the provisions of this Act, conferred or imposed on, or restricted to, the Commissioners in meeting:

Provided that such powers, authorities and duties shall not be exercised by the Chairman or Vice-Chairman in contravention of any order issued, or rule or by-law passed by the Commissioners in meeting.

- 28 (1) The Commissioners may enter into contracts authorised

 The making of contracts.

 by this Act with any person for the execution or supply of any works, labour, materials, machinery, stores, or for other matters necessary for carrying into effect the trusts and purposes of this Act.
- (2) Any such contract, the value or amount of which does not exceed two thousand five hundred rupees, may be made by the Chairman in the case of any work or matter which he is authorized to carry out by this Act or the rules or by-laws thereunder or which has been sanctioned by the Commissioners, but other contracts shall not be entered into except in accordance with a resolution passed by the Commissioners in meeting.
- (3) Notwithstanding anything contained in sub-section (1) and sub-section (2), no contract, under or by which a sum greater than twenty-five thousand rupees may in any event be payable by

the Commissioners, shall be valid without the assent of the Local 1914. Government.

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- 29. (1) Any contract, the value or amount of which does not exceed two thousand five hundred rupees, Mode of executing conmade by the Chairman for and on behalf of tracts and agreements. the Commissioners may be made in such manner and form as, according to the law for the time being administered in Chittagong. would bind him if such contract were on his own behalf.
- (2) Every contract or agreement by or on behalf of the Commissioners which shall exceed the sum of two thousand five hundred rupees shall be in writing and signed by the Chairman or Vice-Chairman and by two other Commissioners, and shall be sealed with the common seal of the Commissioners.
- (3) No contract or agreement, not executed as in this section provided, shall be binding upon the Commissioners.
- 30. No new work shall be commenced, and no contract in respect thereof shall be entered into, if the Manner in which works to estimated cost of such work exceedsbe sanctioned.
 - (1) two thousand five hundred rupees, until the plan and estimate therefor shall have been determined on and approved by the Commissioners in meeting;
 - (11) twenty-five thousand rupees, until the plan and estimate therefor shall have been submitted to, and approved by, the Local Government.
- 31. The Commissioners in meeting may abandon, compound or compromise any claim or demand on Power to Commissioners such terms as to them may seem fit. to compound
- 32. No act or proceeding of the Commissioners shall be invalidated or deemed illegal by reason only of Formal defects. any vacancy in the number of the Commissioners, or of any defect in the election or appointment of any of the Commissioners, or of any defect in the notice given of any meeting, or any defect of form.

CHAPTER IV.

OFFICERS AND SERVANTS.

33. (1) The Commissioners shall from time to time prepare and in meeting sanction schedules of the Schedule of establishstaff of officers and servants whom they ment. deem it necessary to maintain for carrying out the purposes of this Act, and of the salaries, fees, and allowances assigned to such officers and servants.

- 1914. (2) A copy of the said schedules shall be attached to the annual budget estimates and another copy to the annual administration report of the Commissioners.
 - (3) The approval of the Local Government shall be required to the creation of any new post, the total emoluments of which exceed on the average one hundred rupees a month, and to any change in the remuneration of any such post.
 - (4) Artisans, porters and labourers shall not be deemed to be officers or servants within the meaning of sub-section (1).
 - 34. Subject to the condition that the expenditure can be duly Temporary establishment from the sanctioned annual budget estimates, the Chairman may make any temporary appointment for a period not exceeding three months on a salary not exceeding one hundred rupees a month, and the Commissioners in meeting may make any temporary appointment for a period not exceeding six months on a salary not exceeding two hundred and fifty rupees a month.

By-laws relating to officers and servants.

35. (1) The Commissioners in meeting may from time to time make by-laws—

- (a) for regulating the grant of leave to officers and servants of the Commissioners;
- (b) for authorising the payment of allowances to any such officers and servants while absent on leave;
- (c) for determining the remuneration to be paid to the persons appointed to act for any such officers and servants during their absence on leave;
- (d) for regulating the period and other terms of service of all such officers and servants;
- (e) for determining the conditions under which any such officers and servants shall, on retirement, receive pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities and compassionate allowances;
- (f) for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any of such officers or servants injured, or to surviving relatives of any such officers or servants killed, in the execution of their duty, whether the injury or death occurred before or after the commencement of this Act;
- (g) for establishing and maintaining a provident or annuity fund, and in respect thereto—

(i) compelling all or any of such officers or servants (other than Government officials) to subscribe to such fund and, if necessary, providing for the deduction of such subscription out of the salaries or emoluments of such officers or servants:

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- (ii) fixing the conditions under which payments may be made out of such fund, and under which such payments shall discharge the fund from further liability;
- (iii) providing for the settlement, by arbitration or otherwise, of disputes relating to such fund or the payments or subscription thereto or claims thereon, between the Commissioners and other persons, or between persons claiming any share or interest therein; and
- (iv) regulating generally other matters incidental to such fund and the investment thereof;
- (h) for providing for the payment by the Commissioners out of other funds vested in the Commissioners of contributions to any provident or annuity fund established by or with the approval of the Commissioners.
- (2) By-laws framed under this section shall not come into force unless and until they have been confirmed by the Local Government.
- 36. Subject to the provisions of such by-laws, the power of Appointment of officers appointing, promoting, suspending, dismissand servants.

 ing, finding, reducing or granting leave to the officers and servants of the Commissioners required for the appointments sanctioned for the time being in the schedule framed under section 33 shall be exercised—
 - (a) by the Chairman in the case of officers and servants whose monthly salary shall not exceed rupees one hundred a month, and
 - (b) in every other case by the Commissioners in meeting.
 - Pilots.

 The Commissioners shall have the right and privilege of maintaining pilots, and shall be bound to maintain a sufficient number of pilots.
- (2) The Commissioners in meeting may from time to time make by-laws—
 - -(a) for fixing and regulating the wages and allowances for pilotage to be received by pilots; and
 - (b) for regulating the duties, conduct and behaviour of pilot; and shall enforce the observance of such by-

1914. Act 5. laws by the imposition of pecuniary penalties not exceeding one hundred rupees in respect of each offence or by suspension or deprivation of appointment, or otherwise, as may seem to them expedient.

(3) By-laws framed under this section shall not come into force until they have been confirmed by the Local Government.

CHAPTER V.

GENERAL POWERS OF THE COMMISSIONERS.

Construction of Works, etc.

Works to be constructed and carry out the following works:—

- (a) docks, wharves, quays, stages, jetties and piers with all necessary and convenient drains, arches, landing-places, stairs, fences and approaches;
- (b) quarters and buildings for the residence of the Commissioners' officers;
- (c) railways, tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods landed or to be shipped or carried, and places suitable for the sampling and selling of such goods;
- (d) the laying down of moorings, and the erection of cranes, scales and all other necessary appliances for loading and unloading vessels;
- (e) the reclamation, enclosing, raising and revetting of any part of the bank or bed of the river;
- (f) the construction and application of dredgers and other machines for clearing, deepening and improving the bed of the river;
- (g) the procuring and employment of steam-vessels for towing vessels into, out of, in or upon, the river, and for carrying passengers and their personal effects within or partly within and partly without the limits of the port;
- (h) the construction of such works within or without the limits of the port as shall be necessary for the protection of works executed under this Act;
- channel which the Local Government may, by notification, place under the management of the Commissionors; and

(j) all such other works and appliances as may, in the opinion of the Commissioners, be necessary for carrying out the provisions of this Act.

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Port By-laws.

- 89. (1) The Commissioners in meeting may, subject to the Power to Commissioners condition of previous publication, from time to make Port by-laws. to time make by-laws consistent with the Indian Ports Act, 1908,* and with this Act, for any of the following purposes (that is to say):—
 - (a) for regulating, declaring and defining the docks, wharves, quays, stages, jetties and piers on and from which goods shall be landed from, and shipped in, vessels within the port;
 - (b) for regulating the manner in which, and the conditions under which, the loading and discharging of all vessels within the port shall be carried out;
 - (c) for the safe and convenient use of such docks, wharves, quays, stages, jetties and piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining them;
 - (d) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;
 - (e) for regulating the mode of payment of tolls, dues, rates, duties and charges levied under this Act;
 - ('f') for providing water for ships, and for licensing and regulating water-boats within the port;
 - (g) for the removal of wrecks from the port or the river, and keeping clean the port, the river, the bank of the river, and the works of the Commissioners, and for preventing filth and rubbish being thrown therein or thereon;
 - (h) for regulating the hours during which European seamen, and apprentices shipped on the same footing as European seamen may be employed within the port on board ships, or on docks, wharves, quays, stages, jetties and piers in work necessitating exposure to the sun; and
 - (i) for otherwise carrying out the purposes of this Act.

^{*} Act XV. of 1908.

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(2) No by-law made under this section shall come into force until it has been confirmed by the Local Government.

Public Landing-places, etc.

- 40. The Commissioners shall provide a sufficient number of landing-places within the port from and upon Free public landing-places. which the public may be permitted to embark and land free of charge.
- 41. The Commissioners may occupy or remove or alter any bathing-place or landing-place in the port, Removal of bathing-places and prohibit the public from resorting to or and landing-places. using such bathing-place or landing-place:

Provided that the Commissioners shall provide for the use of the public such other bathing-places or landing-places, if any, as the Local Government may by notification direct.

Landing and Shipment of Goods, and Registration of argo-boat traffic.

Appliances for shipment and landing in and from seagoing vessels.

42. For the expeditious and convenient landing and shipment of goods from and in sea-going vessels within the port, and for the storing of such goods, the Commissioners may provide and maintain sufficient docks, wharves, quays, stages,

jetties, piers, warehouses and sheds, and sufficient servants and appliances, and may by their servants land and ship all goods from and in any such vessel coming to any such dock, wharf, quay, stage, jetty or pier, except where there is a lawful excuse for refusing to land or ship such goods, or such vessel is, under any enactment for the time being in force, not entitled to have her cargo shipped or discharged:

Provided as follows:-

- (1) the Commissioners shall not be bound to land, ship or move any single article or package exceeding ten tons of twenty hundred-weights in weight, except at such special charge as may be agreed upon in respect of such article or package;
- (2) the Commissioners may, by special arrangement with the matters of vessels or the owners of goods, permit goods to be landed or shipped by persons other than the officers and servants of the Commissioners.
- 43. (1) When the Commissioners or the Assam-Bengal Railway Company, as the case may be, have made Power to Commissioners and completed, abutting on the river and to compel sea-going vessel to use docks, wharves, etc. whether within or without the limits of the port, any dock, wharf, quay, stage, jetty or pier, together with sufficient warehouses, sheds and appliances for landing and ship-

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ping, or for landing or shipping, goods from and in sea-going vessels, the Commissioners may, with the previous sanction of the Local Government, by a notification published in the Calcutta Gasette declare that such dock, wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or shipping as the case may be, goods from and in sea-going vessels.

- (2) From and after such publication, the Commissioners may from time to time, when there is room in or at such dock, wharf, quay, stage, jetty or pier order to enter or come alongside of such dock, wharf, quay, stage, jetty or pier, whether for the purpose of landing and shipping goods, or for landing or shipping the same, as the case may be, any sea-going vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to take in cargo.
- 44. When the Commissioners or the Assam-Bengal Railway When all sea-going vestormaps, as the case may be, have provided, sels may be compelled to as aforesaid, abutting on the river, a use docks, wharves, etc. sufficient number of docks, wharves, quays, stages, jetties or piers, together with such number of warehouses, sheds and appliances as the Commissioners may deem necessary, the Commissioners may, with the previous santion of the Local Government, by an order published in the Calcutta Gasette, direct that no goods shall be landed or shipped from or in sea-going vessels within the port, save at such docks, wharves, quays, stages, jetties and piers.
- Power to Commissioners way Company, as the case may be, have to compel inland vessels to use docks, wharves, etc. any dock, wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, together with such number of warehouses, sheds and appliances as the Commissioners may deem necessary in that behalf, the Commissioners may, with the sanction of the Local Government, by an order published in the Calcutta Gasette declare—
 - (a) that such dock, wharf, quay, stage, jetty or pier is ready for receiving, landing or shipping goods from or in vessels not being sea-going vessels, and
 - (b) that, within certain prescribed limits within the port, to be specified in such order, it shall not be lawful—
 - (i) to land or ship any goods from or in any vessel, not being a sea-going vessel, of any class specified in such order, except at such dock, wharf, quay, stage, jetty or pier, or

- (ii) for any such vessel, while within such limits, to anchor, fasten or lie, within fifty yards of low-water mark, without the consent of the Commissioners.
- (2) If after such publication any such vessel, while within such limits, so anchors, fastens or lies, the Commissioners may cause the same to be removed out of the said limits.
- 46. Before issuing any notification under section 43, or any Prior publication of notiorder under section 44 or section 45, the fications under sections 43, Commissioners shall publish in the Calcutta Gazett, a draft of the proposed notification or order, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall receive and consider any objection or suggession which may be made by any person with respect to the draft before the date so specified.
- 47. Before publishing a draft notification or order under Tolls and charges in the section 46 in respect of any dock, wharf, case of railway jetties. quay, stage, jetty or pier belonging to the Assam-Bengal Railway Company, the Commissioners shall satisfy themselves that the scale of tolls, dues, rates and charges levied by the said railway—
 - (i) at or for the use of such dock, wharf, quay, stage, jetty or pier, or
 - (ii) for services to be performed thereat, or
- (iii) for the use of works and appliances thereon, has been duly sanctioned by the Railway Board under the powers conferred upon the said Board by or under section 2 of the Railway Board Act, 1905.*
- 48. (1) The Commissioners may, by notice in writing, order
 Power to Commissioners the master or owner of any vessel to remove
 such vessel from any dock. wharf, quay,
 from docks, wharves, etc
 missioners or to the Assam Bengal Railway Company.
- (2) Unless such vessel is removed therefrom within twenty-four hours after service of such notice on the master or owner thereof, the Commissioners may charge, in respect of such vessel, such sum as they think fit, not exceeding five hundred rupees for each day of twenty-four hours, or portion of such day after the expiry of such twenty-four hours, during which such vessel remains at such dock, wharf, quay, stage, jetty or pier.
- 49. Notwithstanding anything contained in this Chapter, the
 Power to Local Government may, by notification, from
 time to time permit certain specified vessels
 or classes of vessels to discharge or ship
 cargo, or certain specified cargo or classes

of cargo, at such part of the port, in such manner, during such period, subject to such payments and on such conditions as the Local Government may think fit and otherwise grant exemption from any of the provisions of this Chapter.

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- 50. (1) Whenever any goods are landed by the Commis-Discharge of liability on sioners or by the Assam-Bengal Railway goods landed. Company from any vessel, the Commissioners or the Assam-Bengal Railway Company, as the case may be, shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in the Second Schedule to this Act, and may in any such receipt include all goods landed from such vessel during one day.
- (2) No master or owner of a vessel from which the goods, in respect of which a receipt is given under sub-section (1), may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.
- 51. When the Local Government appoint, under the provisions Accommodation for Customs officers on docks, toms, any dock, wharf, quay, stage, jetty, wharves, etc. pier, warehouse or shed, provided under this Act for the use of sea-going vessels, to be a dock or wharf for the landing or shipping, or a warehouse for the storing of goods within the meaning of such Act,

the Commissioners shall set apart, maintain and secure on or in such dock, wharf, quay, stage, jetty, pier, warehouse or shed such portion thereof, or place therein, or adjoining thereto, for the use of the officers of Customs as the Local Government may approve of or appoint in that behalf

- 52. Notwithstanding that any dock, wharf, quay, stage, jetty,

 Dues at Customs docks, pier, warehouse or shed or portion thereof
 wharves, etc. has, under the provisions of section 51, been
 set apart for the use of the officers of Customs, all dues, rates, tolls,
 charges and rents payable under this Act in respect thereof, or for
 the use thereof, or for the storage of goods therein, shall be paid
 and be payable to the Commissioners, or to such persons as they
 may appoint to receive the same.
- 53. (1) The master of every vessel entering or leaving the Registration of cargo-boat port to which the provisions of the Sea Custamfic.

 toms Act, 1878,* in regard to entering or clearing at a Customs House, do not apply shall be bound to stop at one or other of the stations established by the Commissioners for the registration of river-borne traffic, and forthwith to make a full and true declaration of the nature and value of the cargo at the time being carried by him on such vessel

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(a) No such master shall withdraw his vessel from any such station until he has received from the clerk in charge of the same a pass on which the particulars of the nature and value of the cargo so being carried shall be recorded.

Private Docks, Wharves, etc.

- 54. (1) Save as provided in section 55 no person except the Prohibition of private Commissioners shall, after the commence-docks, where, etc. ment of this Act, make, erect or fix below high-water mark within the port any dock, wharf, quay, stage, jetty, pier, erection or mooring.
- (2) Any matter of thing made, erected or fixed in contravention of the provisions of sub-section (1) or of section 30 of the Chittagong Port Commissioners Act, 1887,* may be removed by the Commissioners, and the person by whom the same is being or has been so made, erected or fixed shall be liable to pay all expenses which may be incurred by the Commissioners in such removal.
- 55. The Commissioners may, by an order in writing and subPower to Commissioners
 to permit private d.cks,
 wharves, etc.

 below high-water mark within the port, or
 abutting on the river, any dock, wharf, quay, stage, jetty, pier,
 erection or mooring.
- 56. Any dock, wharf, quay, stage, jetty, pier, erection or Docks, wharves etc., be- mooring made, erected or fixed below highyond port limits water mark without the limits for the time being of the port and thereafter included within the said limits may be removed, filled up or destroyed by the Commissioners without payment of any compensation,

unless such dock, wharf, quay, stage, jetty, pier, crection or mooring was, made, erected or fixed—

- (i) prior to the twenty-fifth day of April, 1888 or
- (ii) with the consent in writing of the Commissioners constituted under the Chittagong Port Commissioners, Act, 1887,* or
- (iii) with the consent in writing of the Local Govern-

Tolls, and Charges.

Scales of tolls and charges to be framed. 57. (1) The Commissioners shall

(a) a scale of tolls, dues, rates and charges—

^{*} Ben. Act IV. of 1887.

- (i) for the landing and shipment of goods from and in sea-going vessels, and vessels not being sea-going vessels, respectively, at such docks, wharves, quays, stages, jetties and piers as belong to the Commissioners,
- 1914 Act 5
- (ii) for the use of such docks, wharves, quays, stages, jetties and piers by such vessels,
- (iii) for the storing and keeping of any goods stored in any premises belonging to the Commissioners,
- (iv) for the removal of goods, and
- (v) for the use of any mooring;
- (b) a scale of tolls for the use of the said docks, wharves, quays, moorings, stages, jetties and piers by any such vessels, in case the Commissioners permit the goods to be landed or shipped by persons other than their own officers and servants; and
- (c) a scale of charges for-
 - (i) any service to be performed by the Commissioners or their servants in respect of any vessels or goods,
 - (ii) the use of any works or appliances to be provided by the Commissioners, and
 - (iii) for the carrying of passengers and their personal effects on vessels belonging to, or hired by, the Commissioners.
- (2) Such scales shall be submitted to the Local Government, and, after approval or modification by the Local Government, shall be published in the Calcutta Gasette.
- (3) Every such scale shall be printed in the English and Bengali languages and characters, and shall be kept hung up in some conspicuous place at the several docks, wharves, quays, stages, jetties, piers, warehouses and sheds.
- 58. (1) The Commissioners may, with the previous sanction Power to Commissioners of the Local Government, by notification, to impose river due and to impose a river-due on all goods landed from or shipped into any sea-going vessel lying or being within the limits of the port, whether such goods shall or shall not be so landed or shipped at any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners.
- (2) The rates of the said due shall not exceed four annas nor be less than one anna for each ton of goods.
- (3) Subject to the limits enacted by sub-section (2), the Commissioners may, with the previous sanction of the Local Govern-

ment, from time to time, by notification, raise or reduce the rate to be imposed, whether generally or on any particular goods or class of goods.

- (4) Before issuing any notification under this section, the Commissioners shall publish a draft of the same together with a notice specifying a date on or after which the draft will be taken into consideration; and shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.
- (5) Every notification under this section and every draft thereof shall be published in the Calcutta Gusette, and a copy of the notification, as finally settled, shall be printed in the English and Bengali languages and characters and shall be kept hung up at some conspicuous place to be appointed by the Commissioners.
- 59. The Commissioners may levy and collect a customs duty
 Power to Commissioners on all jute exported by sea from the Port
 to levy customs duty on of Chittagong to any other port, whether beyond or within India, at such rate not exceeding,—
 - (a) in the case of raw jute (including jute cuttings and rejections), two annas per bale of four hundred pounds, and
 - (b) in the case of manufactured jute, twelve annas per ton of two thousand two hundred and forty pounds,

as the Local Government may prese cribe by notification:

Provided that no duty shall be leviable on raw jute exported from Chittagong to Calcutta.

- 60. (1) For the amount of all tolls, dues, rates, duties and Commissioners' lien for charges leviable under this Act in respect tolls and charges.

 of any goods, the Commissioners shall have a lien on such goods and shall be entitled to seize and detain them until such tolls, dues, rates, duties and charges are fully paid.
- (2) Tolls, dues, rates, duties and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Commissioners or to be shipped for export, shall be payable before the goods are removed or shipped.
- (3) The lien provided in sub-section (1) for such tolls, dues rates, duties and charges shall have priority over all other liens and claims, except—
 - (a) a lien for freight, primage and general average where such lien has been preserved in the manner hereinafter provided, and

(b) a lien for money payable to His Majesty or to the Secretary of State for India in Council under any law for the time being in force.

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- 61. (1) If the master or owner of any vessel, at or before the Shipowner's lien for time of landing from such vessel of any freight.

 goods at any dock, wharf, quay, stage, jetty or pier, gives to the Commissioners notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned in such notice, such goods shall continue liable after the landing thereof to such lien

 •
- (2) Such goods shall be retained either in the warehouses or sheds of the Commissioners, or, with the consent of the Collector of Customs of the port in the public warehouses, at the risk and expense of the owners of the said goods, until the lien is discharged in the manner provided by section 62.
- 62. Upon the production to any officer appointed by the Discharge of shipowner's Commissioners in that behalf of a document lien for freight. purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Commissioners may permit such goods to be removed without regard to such lien:

Provided that they shall, in every case, use reasonable care in respect to the authenticity of such document.

- 63. (1) Whenever goods have, without any default on the Power to Commissioners part of the Commissioners, been left for to remove goods to ware-two clear days on or in any wharf or shed belonging to the Commissioners, the Commissioners may cause such goods to be removed either to any warehouse belonging to them or, with the consent of the Collector of Customs of the port, to the public warehouses, and the removal and detention in any such warehouse shall be at the risk and expense of the owners of the said goods.
- (2) Whenever any goods are so removed, the Commissioners shall give notice to the consignee or owner of such goods of such removal, if his address be known, by letter sent by post to such address, or left thereat; and shall also publish in the Calcutta Gasette, and in one or more local newspapers (if any), notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear.
 - (3) The consignee or owner of such goods, in addition to the expenses of their removal, shall be liable,—
 - (a) in case the goods are removed to any warehouse of the Commissioners, to a charge for warehousing for the

time during which the goods shall remain in the said warehouse; or,

- (b) in case the goods are removed to the public warehouses, to the charge for warehousing goods in such warehouses.
- (4) If such goods are removed to the public warehouses, the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners, and shall be subject to the power of sale mentioned in section 64.

Recovery by Commissioners of tolls and charges by sale of goods. 64 (1) If the tolls, dues, rates, duties and charges payable to the Commissioners in respect of any goods under this Act are not paid, or,

if the lien for freight, primage or general average, where such notice as aforesaid has been given, is not discharged,

the Commissioners may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods or so much thereof as may be necessary to satisfy the amounts directed in section 65 to be paid out of the proceeds of such sale.

- (2) Before making such sale, ten days' notice shall be given by publication thereof in the *Calcutta Gazette* and in one or more local newspapers (if any).
- (3) If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by post.
- (4) Notwithstanding anything contained in sub-section (1), sub-section (2) or sub-section (3), if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Commissioners in that behalf, to render early or immediate sale necessary or advisable, the Commissioners may, within such period not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods as the urgency of the case admits of.
- (5) The title of a bond-fide purchaser of goods sold under this section shall not be invalidated by reason of any omission to give or send the notice prescribed by sub-section (3) or sub-section (4), nor shall any such purchaser be bound to inquire whether such notice has been sent or given.

Application of sale proceeds.

65. (1) The proceeds of every such sale shall be applied as follows:—

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- (a) in payment of the expenses of the sale;
- (b) in payment, according to their respective priorities, of the liens and claims excepted in this Chapter from the priority of the lien of the Commissioners;
- (c) in payment of the tolls, dues, rates and charges of landing, removing, storing or warehousing the goods, and of all duties or other charges due to the Commissioners in respect thereof.
- (2) The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same:

Provided that such application is made within one year from the sale, or reason is shown to the satisfaction of the Commissioners way such application was not so made;

and in case such application shall not be so made, nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

66. If the master of any vessel, in respect of which any tolls, Recovery by Commissioners of tolls and charges under this Act, or any by-laws or orders made in pursuance thereof, refuses or neglects to pay the same, or any part thereof, on demand, the Commissioners may apply to the Collector of Customs of the port;

and such Collector shall distrain or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners is paid;

and in case any part of the said tolls, dues, rates, charges or penalties, or of the costs of distress or arrestment, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrestment has been so made, the Collector of Customs of the port may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale shall satisfy such tolls, dues, rates, charges or penalties and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand

67. If the Commissioners give to the officer of Government,

Port-clearance not to be granted until tolls, etc., are paid therein specified is due in respect of tolls, dues, rates, duties, charges or penalties chargeable under this Act, or any rules or orders made in pursuance thereof against such ves-

sel or by the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel,

such officer shall not grant such port-clearance until the amount so chargeable has been paid.

Compensation for damage to Port property.

68. (1) In case any damage or mischief is done to any docks, Compensation for damage to property of Commissioners. wharves, quays, jetties, stages, piers or works constructed or acquired by the Commissioners under this Act by any vessel, through the negligence of the master thereof, or of any of the mariners or persons employed therein, any Magistrate of the town of Chittagong may, on the application of the Commissioners, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief:

Provided that, if at the time of the damage or mischief, the vessel was under the orders of a duly-authorised officer belonging to the Pilot Service, or the Harbour-master's department, as the case may be, the case shall not be cognizable by the Magistrate under this section.

(2) If at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed five hundred rupees,

the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid,

and such amount shall be paid to the Commissioners out of the proceeds.

CHAPTER VI.

PROPERTY OF THE COMMISSIONERS.

Power to Commissioners to hold and dispose of property.

69. The Commissioners may, for the purposes of this Act, acquire and hold moveable and immoveable property within or without the limits of the port;

and may lease, mortgage, sell or exchange such property:

Provided that no sale of immoveable property and no lease or alienation thereof for a term exceeding ten years shall be valid

unless such sale, lease or alienation shall have been made with the previous sanction of the Local Government.

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- 70. The property specified in the Γhird Schedule shall be Property vested in the Commissioners, and shall be Commissioners. held by them subject to the provisions of this Chapter.
- 71. (1) In the case of any property specified in Part I. of the Transfer of Government Third Schedule, or which may hereafter be property to Commissioners. transferred by the Local Government to the Commissioners otherwise than in exchange for its market value, no buildings or other permanent structures shall be erected thereon except with the sanction of the Local Government.
- (2) If any portion of the property referred to in sub-section (1) is required by the Local Government for a public purpose, the same may be resumed by the said Government without claim to compensation on the part of the Commissioners, except—
 - (a) for the amount of any consideration or other payment made in respect of the transfer to the Commissioners;
 - (b) for the cost of revetment and other works for the protection of the property resumed which have been effected with the sanction of the Local Government by and at the expense of the Commissioners constituted under the Chittagong Port Commissioners Act, 1887,* or under this Act, and
 - (c) for buildings and other permanent structures erected thereon with the sanction of the Local Government:

Provided as follows: ---

- (i) the compensation to be awarded under clause (b) shall not in any case exceed the market value of the land resumed at the time of such resumption;
 - (ii) the compensation to be awarded under clause (c) shall be either the original cost of the building or structure or the market value of the same at the time of such resumption, whichever is less;
 - (111) if any question arises between the Commissioners and the Local Government as to the boundaries of any portion of the land referred to in sub-section (1), the Local Government may define and demarcate such boundaries, and the decision of the Local Government in respect thereto shall be final.

^{*} Ben. Act IV. of 1887.

- 72. When any land is required for the purposes of this Act, the Local Government may, on the request of the Commissioners, proceed to acquire it under the provisions of the Land Acquisition Act, 1894;* and, on payment by the Commissioners of the compensation awarded under that Act and of the charges incurred by the Local Government in connection with the proceedings, the land shall vest in the Commissioners.
- 73. All property vested in, or acquired or held by, and all moneys paid or payable to the Commissioners, shall be held and applied by them in trust for the purposes of this Act.

CHAPTER VII.

BORROWING POWERS.

74. The Commissioners may, after notification in the Calcutta

Power to Commissioners Gazette, raise money required for the carryto borrow. ing out of works which they are authorised
by this Act to carry out, or for the general purposes of this Act, or
for the purpose of repaying, either in whole or in part, any moneys
heretofore or hereafter borrowed or owing by the Commissioners:

Provided as follows:---

- (1) no loan shall be raised without the previous sanction of the Local Government, and if the amount of the loan exceeds five lakhs of rupees, or if the repayment of the loan is to be made after a period exceeding thirty years, of the Governor-General in Council;
- (2) when the amount of any loan to be raised exceeds five lakhs of rupees, the previous sanction of the Governor-General in Council shall also be required to the dates within which the loan is to be raised or, if the loan is to be raised in instalments, the dates within which each instalment is to be raised.

Security for moneys 75. All loans raised under this Act shall be raised on the security of—

- (a) the property now vested, or which may hereafter become vested, in the Commissioners; and
- (b) the tolls, dues, rates, rents and charges leviable under this Act, less any sums set apart by the Commissioners as a Sinking Fund for the purpose of paying off a loan.

Form and transferability of debentures and the mights of Government and of debenture-holders. 76. (1) All debentures issued under this Act shall be in such form as the Commissioners shall from time to time determine:

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Provided that, in the case of loans raised out of India, the form of the debentures shall require the previous sanction of the Governor-General in Council.

- (2) The holder of any debenture in any form duly authorised under this section may obtain in exchange therefor, upon such terms as the Commissioners shall from time to time determine, a debenture in any other form so authorised.
- (3) Every debenture issued by the Commissioners shall be transferable in such manner as shall be therein expressed.
- (4) All coupons attached to debentures issued under this Act shall bear the signature of the Chirman or Vice-Chairman, and such signature may be engraved lithographed or impressed by any mechanical process.
- (5) The right to sue in respect of moneys secured by such debentures shall be exercisible by the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.
- (6) The Secretary of State for India in Council shall have, in respect of all loans made by him to the Commissioners, the same remedies as debenture-holders; but he shall not be deemed to possess any prior or greater rights in respect of such loans than debenture-holders.
- 77. All loans contracted under the Chittagong Port Commissioners Act, 1887,* or under this Act, and repayable by the Commissioners, shall be a first charge on the income of the Commissioners and on the property now vested, or which hereafter may become vested, in the Commissioners.
- 78. (1) In respect of every loan raised by the Commissioners

 Establishment of Sinking after the passing of this Act, for a term

 Fund. exceeding one year (except a loan taken
 from the Secretary of State for India in Council, the Commissioners shall provide a Sinking Fund. Payments shall be made
 half-yearly to such Sinking Fund, and such payments shall be of
 such amounts as will be sufficient to liquidate the loan within a
 period which shall not exceed thirty years or, with the previous
 sanction of the Governor-General in Council, sixty years.
- (2) The Commissioners may apply the whole or any part of the sum's accumulated in the Sinking Fund in or towards the dis-

1914. charge of the moneys for the repayment of which the fund has been established, provided that they pay into the fund in each year, and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the Sinking Fund, or the part of the Sinking Fund so applied.

- (3) The sums so set apart as a Sinking Fund shall be invested in securities of the Government of India or in the Commissioners' debentures, or in such other securities as the Local Government may approve in this behalf, and shall be held in trust for the purposes of this Act by two trustees, one being the Commissioners and the other a person appointed by the Local Government.
- 79. (1) The Sinking Fund established for the liquidation of any loan shall be subject to annual examina-Annual examination of Sinking Fund tion by the Accountant-General, Bengal, who shall ascertain whether the cash and the current value of the securities at the credit of the fund are actually equal to the amount which would have accumulated had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon.
- (2) The Commissioners shall forthwith pay into the Sinking Fund any amount which the Accountant General may certify to be deficient, unless the Governor-General in Council specially sanctions a gradual re-adjustment.
- 80. The Commissioners may apply any sums which can be so applied without perjudicing the security Power to Commssioners to repay loans to Governof the other debenture-holders of the Comment before due date. missioners in repaying to the Secretary of State for India in Council any sum which may remain due to him in respect of the principal of any loans although the time fixed for the repayment of the same may not have arrived:

Provided as follows:-

- (1) no such repayment shall be made of any sum less than five thousand rupees;
- (2) if such repayment is made, the amount of interest in each succeeding instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal.

Disposal of unexpended balances.

- 81. The unexpended balance, if any, of any loan raised for the carrying out of works shall,—
- (1) in the case of loans made by the Secretary of State for India in Council, be repaid and the principal of the debt correspondingly reduced; and

(2) in the case of loans raised in the open market, unless the application of such unexpended balance to other capital expenditure be sanctioned by the authority which sanctioned the raising of the loan,—

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- (a) be utilised in purchasing in the open market, and cancelling, debentures issued by the Commissioners, or
- (b) be paid into the Sinking Fund established for the liquidation of such loan.

CHAPTER VIII.

DISPOSAL OF FUNDS.

82. (1) Except as provided in section 83, all moneys raised by and paid to the Commissioners under this Act shall be kept in such bank or banks as may be selected by the Commissioners in meeting subject to the previous approval of the Local Government:

Provided that any surplus moneys not immediately required for the purposes of this Act, but which may be so required after such a short period as would, in the opinion of the Commissioners, prevent an advantageous investment thereof under the provisions of section 83 may from time to time, with the sanction of the Local Government, be deposited by the Commissioners on interest in any bank or banks in Chittagong selected for that purpose by the Commissioners.

(2) No portion of any funds kept or deposited in any bank under sub-section (1) shall be withdrawn from such bank except under the signature of the Chairman or Vice-Chairman.

Investment of balances and special funds.

83. The Commissioners may invest—

- (i) any balance remaining on the 31st March of each year to the credit of any account kept by them, after meeting all the charges properly debitable to such account; and
- (ii) any moneys set aside for any special purpose or for the maintenance of any approved fund considered desirable by them,

in securities of the Government of India, or in fixed deposit with the Bank of Bengal, or in such other securities as the Local Government may approve in this behalf;

and may from time to time sell the said securities and invest the proceeds in other such securities, or credit the same to the account to which the moneys invested belonged for expenditure on any of

the purposes to which moneys credited to such account may law-Act 5. fully be applied:

Provided that the amount so invested by the Commissioners in respect of any account shall not exceed such amount, annually or in the aggregate, as may be prescribed by the Local Government.

- Application of moneys belonging to the Commissioners shall be applied by them in payment of the following charges, and, in the case of a deficiency of assets, such charges shall rank as against the fund of the Commissioners and be paid in the following order, namely:—
 - (1) the interest and instalments of capital due in respect of any loan that may have been raised by the Commissioners or for the repayment of which the Commissioners may be liable;
 - (2) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to—
 - (i) the Chairman and the Commissioners,
 - (ii) the officers and servants appointed or maintained under this Act or lent to the Commissioners, and
 - (iii) the surviving relatives, if any, of such officers and servants;

and the contributions, if any, payable to the Local Government on account of the pension and leave allowance of any officer lent to the Commissioners by the Local Government, and the contributions, if any, duly authorised to be made to any provident or annuity fund by by-laws made under this Act;

- (3) any charges for which the Commissioners may be liable under sections 99 and 100;
- (4) such sum as the Local Government may, from time to time, require under section 85 for the establishment and maintenance of police for the protection of the port and the approaches thereto;
- (5) if the Commissioners are appointed by a notification of the Local Government to exercise the powers and perform the duties specified in section 36, sub-section (1), of the Indian Ports Act, 1908,* any other payment or expenditure mentioned in sub-section (5) of that section which the Local Government may direct the Commissioners to make or incur;
- (6) the cost of repairs and maintenance of the property vested in the Commissioners, and all charges upon the same and all working expenses;

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(7) the cost of the construction and carrying out of any of the works specified in section 38; and

(8) any other charge which may be specially sanctioned by the Local Government for which the Commissioners may be legally liable.

85. The Commissioners shall provide such sums as the Local

Cost of Port Police.

Government may from time to time require
as their contribution for the establishment
and maintenance of police to be called "Port Police" for the protection of the port and the approaches to the port.

CHAPTER IX.

ESTIMATES AND ACCOUNTS.

- 86. (1) The Chairman shall, at a special meeting to be held in Annual estimate to be the month of February in each year, lay prepared and considered. before the Commissioners an estimate of the income and of the expenditure of the Commissioners for the year commencing on the first day of April next ensuing, in such detail and form as the Commissioners may, subject to the approval of the Local Government, from time to time, direct.
 - (2) To such estimate there shall be added—
 - (i) an appendix containing particulars of all new works covered by the estimates and of the estimated cost of the same; and
 - (ii) the schedule of officers and servants sanctioned under section 33.
- (3) Such estimate shall be completed and a copy thereof sent by post or otherwise to each Commissioner at least seven clear days prior to the meeting before which the estimate is to be laid.
- (4) The Commissioners shall consider the estimate so submitted to them, and shall pass the same unaltered or subject to such alterations as they may think fit.
- 87. (1) A copy of the estimate, as passed by the Commis-Submission and publica- sioners, shall be submitted for approval to tion of estimate the Local Government, and the Local Goverament may, if they think fit, approve or disallow such estimate or any portion thereof, and return the same for amendment at any time within one month of the receipt thereof.
- (a) The Commissioners shall, if the estimate is so returned by the Local Government, forth with proceed to amend the same, and shall resubmit the estimate so amended for approval to the Local Government.

- (3) A copy of the estimate, as passed by the Commissioners, and a copy of the estimate as finally approved by the Local Government shall be open to the inspection of the public at the office of the Commissioners during office hours on payment of one rupee for each inspection.
- (4) An abstract of the estimate, as finally approved by the Local Government, shall be published in the Calcutta Gazette.
- 88. (1) The Commissioners may, at any time during the year

 Supplementary estimates. for which such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them.
- (2) Every such supplementary estimate passed by the Commissioners shall be submitted for approval to the Local Government in the same manner, and the provisions of section 87 shall apply to it, as if it were an original annual estimate.
- 89. Subject to any directions which the Local Government Re-appropriation of may give in this behalf, any sum of money, amounts in estimate or part thereof, of which the expenditure has been authorised in an estimate sanctioned under the foregoing provisions, and which has not been so spent, may at any time be re-appropriated by the Commissioners to meet any excess in any other expenditure authorised in the said estimate:

Provided that the total amount of expenditure sanctioned by such estimate, as passed by the Commissioners and approved by the Local Government, shall not be exceeded without the sanction of the Local Government.

- 90. Save in cases of pressing emergency, no sum shall be ex-Prohibition of expenditure pended by or on behalf of the Commissioners, not provided for in estimates. unless such expenditure is provided for in an estimate sanctioned under this Chapter and at the time in force, or by a re-appropriation amending such estimate passed by the Commissioners under section 89.
- Report of exceptional expenditure to Local Government.

 Solution

 Report of exceptional expenditure to Local Government.

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 - 92. No expenditure shall be charged by the Commissioners to capital account, except with the sanction of the Local Government.
 - 93. The accounts of the Commissioners shall be examined and audited in such manner as the Local Government may direct.

94. (1) The Commissioners shall annually, or oftener if directed
Submission of accounts to by the Local Government so to do. submit
Local Government. statements of their receipts and disbursements in such form and at such time as the Local Government may direct.

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(2) A copy of all such statements shall be open to the inspection of the public at the office of the Commissioners during office hours on payment of one-rupee for each inspection.

CHAPTER X.

CONTROL OF GOVERNMENT.

Control of Local Government over Commissioners' acts and proceedings.

95. All acts and proceedings of the Commissioners shall be subject to the control of the Local Government, and the Local Government may—

- (i) cancel, suspend or modify any such acts or proceedings,
- (ii) grant exemptions from the payment of any tolls, charges, dues or rates leviable under this Act, and
- (iii) direct what acts and proceedings of the Commissioners shall be submitted, and in what form.
- 96. The Commissioners shall annually, or oftener if directed

 Annual and other reports.

 by the Local Government so to do, submit
 in such form and at such time as the Local
 Government may direct, reports of all works executed and proceedings taken by them under this Act.
- 97. (1) If at any time it appears to the Local Government that Power to Local Government sufficient provision is not being made by the Commissioners ito meet their liabilities, the Local Government may require the Commissioners to make such provision in either or both of the following ways, namely:—
 - (a) by increasing, subject to the sanction of the Local Government, to such extent and for such period as may appear necessary, the rates or any of the rates for the time being in force under section 57, or
 - (b) by exercising, subject to the like sanction, all or any of the powers conferred by section 58 with reference to all or any goods referred to in that section.
- (a) If within one month after receipt of a requisition under clause (a) of sub section (r), the Commissioners do not comply with the same, the Local Government may, by notification, increase the said rates or any of them, and the rates imposed by such notification shall have the same force and effect as a scale of rates framed, sanctioned and published under section 57.

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- (3) If the Commissioners do not forthwith comply with a requisition under clause (b) of sub-section (1), the Local Government may, by notification, impose or increase any river-due on all or any goods referred to in section 58, and the river-due so imposed or increased shall have the same force and effect as a river-due imposed, sanctioned and published under section 58.
- 98. (1) If at any time it appears to the Local Government that

 Power to Local Governament to require modification of scales.

 Government may call upon the Commissioners to modify such scales accordingly.
- (2) If within two months after receipt of a requisition under sub-section (1) the Commissioners do not make the modification required by the local Government, the Local Government may by notification, make such modification, and the sale so modified shall have the same force and effect as a scale framed and published under section 57:

Provided that before issuing such notification the Local Government shall receive and consider any objection or suggestion which may be made by the Commissioners within two months after receipt of the requisition under sub-section (1).

- 99. The Local Government may at any time order a survey

 Power to Local Governand examination of any works of the Comment to order survey.

 missioners under this Act, or of the site thereof, and the cost of such survey or examination shall be borne and paid by the Commissioners.
- 100. If the Commissioners allow any work acquired or conPower to Local Govern.
 ment to carry out neglected disrepair, or do not complete any work commenced by them or duly estimated for and
 sanctioned,

and do not, after notice given by the Local Government in writing, proceed effectually to repair or complete such work,

the Local Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Commissioners.

Power to Local Govern. that the purposes intended to be accomment to revoke powers of Commissioners. that the purposes intended to be accomplished under this Act have not been and are not likely to be preperly accomplished by the Commissioners, the Local Government may, by notification, give notice that, unless within six months the Commissioners take measures to the satisfaction of the Local Government for properly accomplishing such purposes, the powers, by this Act conferred on the commissioners will, at the end of such period, be withdrawn and revoked.

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(a) On the expiration of the period aforesaid, the Local Government may, if no such measures to their satisfaction have been taken by the Commissioners, declare such powers to be withdrawn or revoked, and may assume such powers, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested in or held by the Commissioners for the purposes of this Act shall thereupon vest in the Local Government.

CHAPTER, XI.

PENALTIES AND PROCEDURE.

102. Any Commissioner who, save as provided in section 12,
Unlawful interest of Commissioner in contracts or indirectly, any share or interest in any work
employment. done by order or on behalf of the Commissioners, or in any contract or employment with, by, or on behalf of
the Commissioners shall, in addition to the disqualification provided
for under section 12, be punished with fine which may extend to
five hundred rupees.

Unlawful interest of officer or servant in contracts or employment.

103. Any officer or servant of the Commissioners who directly or indirectly—

- (a) otherwise than as a debenture-holder, lends money to the Commissioners, or
- (b) becomes pecuniarily interested in any contract made by or on behalf of the Commissioners, or
- (c) participates or agrees to participate in any profits of any work done by order of or on behalf of the Commissioners,

shall be punished with fine which may extend to five hundred rupees:

Provided that nothing in this section shall apply to any officer or servant of the Commissioners by reason only of his being a shareholder in or member of any company (registered under the provisions of any Act for the registration of joint-stock companies passed by any Indian Legislature or by the Parliament of the United Kingdom, or incorporated by Act of Parliament, Royal Charter, or otherwise) which may lend money to, contract with, or be employed by or on behalf of the Commissioners.

104. Whoever infringes any by-law made by the Commis
1 Infringement of by laws, sioners under section 39, or any order issued orders, etc.

by them under sections 43, 44 or 45, or any condition prescribed under section 49 or 55, or the direction contained in section 53, or the prohibition contained in section 54, shall be punished with fine which may extend to one hundred rupees; and, if the infringement be continuing, with a further fine, which may extend to one hundred rupees for every day after netice of such infringement has been given by the Commissioners.

105. Prosecutions under this Act may be instituted by the Commissioners or by any person authorised by them in this behalf by name or by virtue of his office, and not otherwise.

CHAPTER XII.

MISCELLANEOUS.

- 106. Every Commissioner, and the officers and servants of the Commissioners, etc., to Commissioners, other than artisans, porters be public servants. and labourers, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.*
- 107. No Commissioner shall be personally liable for any con-Exemption of Commissioners from personal liability. tract made or expense incurred by or on behalf of the Commissioners, but the funds from time to time in the hands of the Commissioners shall be liable for, and chargeable with, all contracts made in manner provided by this Act.
- 108. Every Commissioner shall be liable for any misapplication Liability of Commissioners, of money entrusted to the Commissioners, sioners for breach of trust. to which he has been a party, or which happens through, or is facilitated by, his neglect of duty.
- 109. (1) No suit shall be brought against the Commissioners, Notice and limitation of or against any Commissioner, or against any suits.

 of the officers or servants of the Commissioners or any person acting under their direction, for anything purporting to be done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the Commissioners or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff; and unless such notice is proved, the Court shall dismiss the suit.
- (2) Every such suit shall be commenced within six months next after the accrual of the right to sue and not afterwards.
- (3) If any person to whom any such notice of suit is given tenders sufficient amends before the suit is brought, such plaintiff shall not recover.
- 110. The responsibility of the Commissioners for the loss, Responsibility of Com. destruction or deterioration of animals or missioners for loss, etc. goods, during such time as the same remain in the possession or under the control of the Commissioners, shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872,†

^{*} Act XLV, of 1860.

Indemnity to Commissioners tot acts of officers, the Commissioners shall not be answeretc.

111. Except as provided in section 110,
Commissioners shall not be answer-

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- (i) for any misfeasance, mal-feasance or non-feasance of any officer appointed under this Act or of any conservator or harbour-master, or of any pilot, or of any deputy or assistant of any of the officers above-mentioned, or of any person acting under the authority or direction of any such officer, deputy or assistant; or
- (ii) for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things within the limits of the port which may be used by such vessel:

Provided that nothing in this section shall protect the Commissioners from a suit in respect of any negligence or default on their part or of any Act done by or under their express order or sanction.

- 112. All acts done and proceedings taken by the Commissioners Saving of pievious Port appointed under the Chittagong Port Com-Regulations, etc. missioners Act 1887,* and all orders, rules, regulations and by-laws relating to the port, and to wharves, quays, stages, jetties, piers, landingplaces, tolls, charges, rates and dues within the port made and issued before the commencement of this Act, shall, whenever such acts, proceedings, orders, rules, regulations or by-laws would have been lawful if this Act had been in force, be deemed to have been respectively done, taken, made and issued under the provisions of this Act.
- 113. All fees and sums due on account of property for the Recovery of dues as time being vested in the Commissioners, and arrears of land revenue. all arrears of tolls, dues, rates and charges, imposed under this Act, may be recovered as if they were arrears of land revenue, in addition to the other modés provided by this Act.

^{*} Ben. Act IV. of 1887.

THE FIRST SCHEDULE.

ENACTMENTS REPBALED.

(See section 2.)

			(See section 2.)	
1		2	3	4
Year.		No.	Short title.	Extent of repeal.
		Act of I	the Governor-General of India in Cour	ncil.
1903	***	I.	The Repealing and Amending Act, 1903.	So much of the Second Schedule as relates to Bengal Act IV. of 1887.
		Acts of the	e Lieutenant-Governor of Bengal in C	ouncil.
1887	•••	IV.	The Chittagong Port Commissioners Act, 1887.	
1903	•••	IV.	The Chittagong Port Commissioners (Amendment) Act, 1903.	The whole.
A	t of th	e Lieutena	tant-Governor of Eastern Bengal and A.	ssam in Council.
1912	•••	i.	The Chittagong Port Commissioners (Amendment) Act, 1912.	The whole.

THE SECOND SCHEDULE.

* (See section 50)

FORM OF RECEIPT FOR GOODS.

By the Assam-r'engal Railw	vay Company, Chittagong,					
Landed during the	day of fro	m				
	Port Commissioners					
the	Port Commissioners by the Assam-Bengal Railway Compa	ny'				
Chittagong, the contents and state of the contents unkno	noted in the margi	n;				
NOTE.—If there be any apparent injury, this is to be stated.						
	A. B.,					
For the Po	ort Commissioners , Chitiagong.					
CHITTAGO	NG;					

The

THE THIRD SCHEDULE.

1914.

PROPERTY VESTED IN THE COMMISSIONERS.

Act 5.

(See section 70 and 71.)

Part I.—Immoveable property transferred by Government to the Commissioners constituted under the Chittagong Port Commissioners Act, 1887.*

- I. All the land belonging to Government, bounded on the east by the Nimtolly creek; on the south by the Karnaphuli river; on the west by the Monohurkhali creek; and on the north by a line drawn from Nimtolly creek to Monohurkhali creek east and west immediately to the south of the premises owned by B. R. Texeira, known at the time of the passing of the Chittagong Port Commissioners Act, 1887,* (hereinafter in this Schedule called the said Act) as the Sailors' Home.
- 2. The land held by Government at the time of the passing of the said Act in the occupation of the Customs Department, bounded on the east by the road known as the Rangamati road; on the south by the land belonging to Government, the boundaries of which are set forth in Article 1 of this Schedule; on the west by the Monohurkhali creek; and on the north by private property, vis., plot No 7 of the cadastral survey, but excluding plot No. 12 of the said survey.
- 3. The land held by Government, bounded on the east by the Monohurkhali creek; on the south by the land at the time of the passing of the said Act occupied by the Government Salt Golahs; on the west by a public road leading to the Sadar Ghât jetty; and on the north by private property, vis., plot No. 19 of the cadastral survey.
 - 4. The Sadar Ghât jetty and the approaches leading thereto.
- 5. The waste land belonging to Government, at the time of the passing of the said Act occupied by the Customs Department, bounded on the east by the Sadar Ghat road; on the south by the Strand road; on the west by a tank, at the time of the passing of the said Act, in the possession of Messrs Bulloch Brothers; and on the north by a road running east and west, lying to the south of the Port Commissioners' office.
- 6. The land at the time of the passing of the said Act occupied by the Port godowns and yard, bounded on the east by the public road leading to the Sadar Ghât jetty; on the south by Karnaphuli river; on the west by the premises at the time of the passing of the said Act in the occupation of Messrs. Bulloch Brothers; and on the north by Strand Road.
- 7. All other land the property of Government within the limits of the Port of Chittagong being within fifty yards of high-water

- mark on both banks of the Karnaphuli river, except the land at the time of the passing of the said Act occupied by the Government Salt Golahs, and all land, other than land with regard to which. Government has the right of assessment only, within the limits of the port included in any survey plot through which a line drawn fifty yards about high-water mark passes.
- 8. A plot of land measuring 7 acres and 34 poles (being the site of the Port Engineer's residence), bounded on the north and east by railway land; on the south by a public road and railway land; and on the west by land belonging to Government and containing the quarters of the District Superintendent of Police.
- 9. A plot of land measuring 350 feet by 240 feet (being the site of the Port Commissioners' office, Port and Shipping office and Port Officer's residence), bounded on the north by Government land containing the Sadar Ghât Police-station; on the south by a road referred to in Article 5 of this Schedule; on the east by Sadar Ghât road; and on the west by private land.

Part II.—Immoveable property acquired otherwise than by direct transfer from Government.

(a) Acquired for the revetment of the Karnaphuli river.

- t. A strip of land in village Moheshkhali measuring 800 feet by 130 feet, bounded on the north by the Strand road and villages; on the south by the Commissioners' land; on the east by land belonging to the Assam Bengal Railway; and on the west by paddy fields.
- 2. A strip of land in village Kumarkhali measuring 2,900 feet by 500 feet situated on the right bank of the Karnaphuli river, bounded on the north by paddy fields; on the south by the Karnaphuli river; on the east by the railway land; and on the west by Kumar khal.
- 3. A strip of land in village Halishahar measuring 3,400 feet by 1,000 feet situated on the right bank of the Karnaphuli river and bounded on the north by Kumar khal; on the south by Mirapar khal; on the east by the Karnaphuli river; and on the west by paddy fields.
- 4. A strip of land in village Halishahar measuring 2,200 feet by 800 feet situated on the right bank of the river Karnaphuli and bounded on the north by the Mirapar khal; on the south by Doma khal; on the east by the Karnaphuli river; and on the west by paddy fields.
- 5. A strip of land in village Halishahar measuring 2,300 feet by 800 feet situated on the right bank of the river Karnaphuli, bounded on the north by the Doma khal; on the south by Wootar-kata khal; on the east by the Karnaphuli river; and on the west by paddy fields.

6. A strip of land in the village Halishahar measuring 1,400 feet by 800 feet situated on the right bank of the river Karnaphuli, bounded on the north by Wootarkata khal; on the south by Dakshinkata khal; on the east by the Karnaphuli river; and on the west by paddy fields.

1914. Act 5.

- 7. A strip of land in the village Patiya measuring 3,800 feet by 900 feet situated on the right bank of the river Karnaphuli, bounded on the north by the Karnaphuli river; on the south by paddy fields; on the east by Kawina khal; and on the west by Dakshinkata khal.
- 8. Strips of land measuring more or less 26.68 acres in the village of Chur Lakhya, Police-station Patiya, zilla Chittagong, bounded on the north by parts of Cadastral Survey plots Nos 5471, 5478, 5476, 5619, 5705, 3326, 3320, 3318, 3314 of mauza Chur Lakhya and parts of Cadastral Survey plots Nos. 361, 363, 370, 277 of Chak Moheshkhali; on the south by parts of Cadastral Survey plots Nos. 5502, 5494, 1492, 5489, 5484, 5621, 3306, 3325, 3366, 3305, 3338, 3339, 3340, 3343 of Chur Lakhya and parts of Cadastral Survey plots Nos. 371, 370, 372, 373 of Chak Moheshkali; on the east by parts of Cadastral Survey plots Nos. 3305, 3306, 3339, 3340, 5705, 5620, 5477, 5480, 5481, 5482, 5484, 5485 of mauza Chur Lakhya and parts of Cadastral Survey plots Nos. 371, 372, 370, 373 of Chak Moheshkali; on the west by parts of Cadastral Survey plots Nos. 5496, 5494, 5502, 5620, 5617, 5705 of mauza Chur Lakhya and parts of Cadastral Survey plots Nos. 370, 372, 373 of Chak Moheshkhali.

(b) Acquired for the Kutubdia Lighthouse.

9. A piece of land in village Dhurung measured at the Cadastral Survey in plots Nos. 5370, 5371, 5372, 5374, 5375, 5376, and 5377.

(c) Acquired for boat registration.

- 10. A piece of land measuring 150 feet by 50 feet situated on the left bank of the Gupta khal, bounded on the north and west by paddy fields; and on the south and east by Gupta khal.
- 11. A piece of land at Shamshernagar situated on the left bank of the Kurum Khal measuring 100 feet by 60 feet, bounded on the north by the Kurum Khal; on the south and east by paddy fields; on the west by the Karnaphuli river.
- 12. A piece of land measuring 100 feet by 80 feet situated on the right bank of the Chaktai khal, bounded on the north, west and south by private lands and on the east by the Chaktai khal.

BEN. ACT NO. VI. OF 1914.

The Bengal Medical Act, 1914.

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BEN. ACT NO. VI. OF 1914.

1914. Act 6.

The Bengal Medical Act, 1914.

[Published in the Calcutta Gazette of the 27th MAY, 1914.]

An Act to provide for the registration of Medical Practitioners in Bengal.

Preamble.

WHEREAS it is expedient to provide for the registration of medical practitioners in Bengal;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows:-

Preliminary.

Short title, local extent and commencement.

1. (1) This Act may be called the Bengal Medical Act, 1914;

- (2) It extends to the whole of Bengal; and
- (3) It shall come into force on the day on which it is published in the Calcutta Gazette after having received the assent of the Governor General:

Provided that section 29, section 30 and section 31 shall not come into force until a date to be appoined in this behalf by the Local Government by notification in the Calcutta Gasette.

Definitions.

2 In this Act,—

- (a) the expression "the Medical Acts" means the Medical
 Act, 1858,† and the Acts amending the same;
- (b) the expression "the Council" means the Council established under section 3; and
- (c) the expression "registered practitioner" means any person registered under the provisions of this Act.

The Bengal Council of Medical Registration.

3. A Council shall be established and called the "Bengal Establishment of the Council of Medical Registration;" and such Bengal Council of Medical Registration. Council shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

Constitution of Council.

4. The said Council shall consist of fifteen members, namely:—

^{* 55 &}amp; 56 Vict. c. 14.

1914. Act 6.

- (a) a President to be nominated by the Local Government;
- (b) seven members to be nominated by the Local Govern ment:
- (c) a member to be elected, from among the members of the Faculty of Medicine, by the Senate of the University of Calcutt a;
- (d) one member to be elected by registered practitioners who are qualified to be registered under the Medical Acts;
- (e) three members to be elected by registered practitioners who are graduates or licentiates in Medicine or Surgery of the University of Calcutta; and
- (f) two members to be elected by all other registered practitioners:

Provided that, of the members to be elected under clause (e) or clause (f) respectively, one member shall, in each case, be elected by registered practitioners practising outside Calcutta.

5. If any of the electoral bodies referred to in clauses (c) to Nomination of members (f) of section 4 does not, by such date as in default of election. may be prescribed by rule made in that behalf under section 33, elect a person to be a member of the Council, the Local Government shall nominate a member in his place: and any person so nominated shall be deemed to be a member as if he had been duly elected by such body.

Disqualifications for being elected or nominated a member.

- 6. A person shall be disqualified for being elected or nominated a member of the Council if he—
- (a) is not registered under this Act; or
- (b) has been sentenced by any Court for any non-bailable offence, such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the Local Government are hereby empowered to make, if they think fit, in this behalf; or
- (c) is an undischarged insolvent:

Provided that, in the case of first elections held and first nominations made under this Act, the persons electing the members referred to in clause (d), clause (e) and clause (f) of section 4 and the members elected and nominated under that section shall be persons who are qualified to be registered under this Act.

7. The name of every member elected or nominated under Publication of names of section 4 or section 5 shall be published by the Local Government in the Calcutta Gazette.

8. The Council may permit any member to absent himself

Leave of absence to from meetings of the Council for any period not exceeding six months.

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Cessation of members 9. (1) A member of the Council shall be deemed to have vacated his seat—

- (a) on his absence without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council, or
- (b) on his absence out of India for any period exceeding six consecutive months, or
- (e) on his becoming disqualified for election or nomination as a member for any of the reasons mentioned in section 6.
- (2) On the occurrence of any vacancy referred to in sub-section (1), the President shall forthwith report the fact of such vacancy to the Local Government.
- 10. If any member dies, or resigns his membership, or ceases to be a member as provided in section 9, subsection (I), the vacancy shall be filled, within one month, by a fresh election or nomination, as the case may be, under section 4.
- 11. (1) The term of office of the first members elected or nominated under section 4 or section 5 shall commence on such day as may be appointed by the Local Government.
- (2) Subject to the provisions of section 9, sub-section (1), the term of office of members shall be three years.
- (3) Any member shall, if not disqualified for any of the reasons mentioned in section 6, be eligible for re-election or re-nomination at the end of his term of office.

Meetings. 12. (1) The Council shall make regulations to regulate—

- (a) the times and places at which their meetings shall be held,
- (b) the issue of notices convening such meetings, and
- -(c) the conduct of business thereat:

Provided that-

- (i) no business shall be transacted at any meeting unless a quorum of eight members be present; and,
- (11) save as provided in section 17 and section 25, all questions arising at any meeting shall be decided by the votes of the majority of the members present and voting, or, in case of an equality of votes, by the casting vote of the President, or, in his absence, of the member presiding at the meeting.

1914. Act 6.

- (2) Until such time as the regulations referred to in sub-section (1) have come into operation, it shall be lawful for the President to summon a meeting at such time and place as to him shall seem expedient, by letter addressed to each member.
- Payment of fees and travelling expenses to mem bers.

 Payment of fees and travelling expenses to mem bers.

 Council and approved be paid to the members of the Council such fees for attendance at meetings of the Council, and such reasonable travelling expenses, as may from time to time be allowed by the by the Local Government.

Registrar and establishment for the Council

14. (1) With the previous sanction of the Local Government, the Council—

- (a) shall appoint a Registrar,
- (b) may grant leave to such Registrar and appoint a person to act in his place, and
- (c) shall pay to the Registrar and to the person (if any) appointed to act in his place such salary and such allowances (if any) as the Council may determine
- (2) The Council may appoint such other officers and such clerks and servants as they may consider necessary for the purposes of this Act, and shall pay them such salary and such allowances (if any) as the Council may determine.
 - (3) The Registrar shall act as Secretary to the Council.
- (4) Every person appointed under sub-section (1) and sub-section (2) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.*

The Kegister of Kegistered Practitioners

- 15. (1) The Council shall, as soon as conveniently may be Orders by Council for maintenance of register of registered practitioners. after the commencement of this Act and from time to time as occasion may require, make orders for regulating the maintenance of a register of registered practitioners.
- (2) The said register shall be kept in such form as may be prescribed by rule made under section 33.
- 16. (1) The Registrar shall keep the register of registered Maintenance of register by practitioners in accordance with the provisions of this Act and of any orders made by the Council, and shall from time to time make all necessary alterations in the registered addresses or appointments, and the registered qualifications or titles, of such practitioners and erase the names of any practitioners who have died.
- (2) To enable the Registrar to fulfil the duties imposed upon him by sub-section (1) he may send through the post a letter to any

registered practitioner, addressed to him according to his registered address or appointment, to inquire whether he has ceased to practise or whether his residence or appointment has been changed; and, if no answer to any such letter is received within a period of six months from its despatch, the Registrar may erase the name of such registered practitioner from the register:

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Provided that any name erased under this sub-section may be re-entered in the register under the direction of the Council.

17. Every person referred to in the Schedule shall, subject to

Persons referred to in the provisions hereinafter contained, and on payment of such fee as may be prescribed in this behalf by regulation made under section 33, be entitled to have his name entered in the register of registered practitioners:

. Provided that the Council may refuse to permit the registration of the name of any person—

- (a) who has been sentenced by any Court for any non-bailable offence, such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the Local Government are hereby empowered to make, if they think fit, in this behalt; or
- (b) whom the Council, after due inquiry (at which an opportunity has been given to him to be heard in his defence and to appear either in person or by counsel, vakil, pleader or attorney, and which may, in the discretion of the President, be held in camera), have found guilty, by a majority of two-thirds of the members present and voting at the meeting, of infamous conduct in any professional respect.

Amendment of Schedule.

18. If the Council are satisfied-

- (a) that any title granted on qualification certified by any University, Medical Corporation, examining body or other Institution is a sufficient guarantee that persons possessing such title or qualification possess the knowledge and skill requisite for the efficient practice of medicine, surgery and midwifery, or
 - (b) that any title or qualification referred to in Article 3 of the Schedule is not a sufficient guarantee as aforesaid,

they may make a report to that effect to the Local Government, who may, if they think fit, thereupon direct, by notification in the Calcutta Gasette—

(i) in case (a)—that the possession of such title or qualification shall, subject to the provisions hereinafter 1914. Act 6.

contained and on payment of such fee as may be prescribed in this behalf by regulation made under section 33, entitle any person to have his name entered in the register of registered practitioners, or

(ii) in case (b)—that the possession of such title or qualification shall not entitle any person to have his name entered in the said register;

and the Schedule shall thereupon be deemed to be altered accordingly.

Power to Council to call for certain information from authorities of Medical College or School included or wishing to be included in Schedule.

19. The Council shall have power to call on the governing body or authorities of any Medical College or School included in or desirous of being included in the Schedule—

- (a) to furnish such reports, returns or other information as the Council may require to enable them to judge of the efficiency of the instruction given therein in medicine, surgery and midwifery; and
- (b) to provide facilities to enable any member of the Council (deputed by the Council in this behalf) to be present at the examinations to be held by such College or School.

Information to be furnished to Registrar with applicatication for registration.

- 20. Every person who applies to have his name entered in the register of registered practitioners—
- (a) must satisfy the Registrar that he is possessed of some title or qualification referred to in the Schedule, as altered by notifications (if any) issued under section 18; and
- (b) if he is registered under the Medical Acts,—
 - (i) must correctly inform the Registrar of the date of such registration, and
 - (ii) must furnish the Registrar with a correct statement of the titles or qualifications in respect of which he is so registered, and of the dates on which he obtained them, or
- (c) if he is not registered under the Medical Acts—must correctly inform the Registrar of dates on which he obtained the titles or qualifications which entitle him to claim registration under this Act.
- 21. If any person whose name is entered in the register of
 Entry of new titles and registered practitioners obtains any title
 qualifications in register. or qualification other than the title or qualification in respect of which he has been registered, he shall, on
 payment of such fee as may be prescribed in this behalf by

regulation made under section 33, be entitled to have an entry stating such other title or qualification made against his name in the register, either in substitution for, or in addition to, any entry previously made.

1914. Act 6.

- 22. All fees received by the Council under this Act shall be applied for the purposes of this Act, in accordance with such rules as may be made by the Local Government under section 33.
- 23. If any person is dissatisfied with any decision of the Appeal to Council from Registrar, refusing to enter the name or any decision of Registrar. title or qualification of such person in the register of registered practitioners, he may, at any time within three months from the date of such decision, appeal to the Council, whose decision, shall be final.
- . 24. Any entry in the register of registered practitioners,
 Erasure of fraudulent and which is proved to the satisfaction of the incorrect entries.

 Council to have been fraudulently or incorrectly made, may be erased under an order in writing of the Council.

Power to Council to direct removal of names from register, and re-entry of names therein.

25. The Council may direct—

- (a) that the name of any registered practitioner-
 - (i) who has been sentenced by any Court for any nonbailable offence, such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the Local Government are hereby empowered to make, if they think fit, in this behalf; or
 - (ii) whom the Council, after due inquiry as provided in clause (b) of section 17, have found guilty, by a majority of two-thirds of the members present and voting at the meeting, of infamous conduct in any professional respect,

be removed from the register of registered practitioners, and (b) that any name so removed be afterwards re-entered in

the register.

Appeal to Local Government from decision of Council. 26. (1) An appeal shall lie to the Local Government from every decision of the Council under section 17 or section 25.

(2) Every appeal under sub-section (1) shall be preferred within three months from the date of such decision.

B. C.-218.

1914. Act 6.

- 27. No suit or other legal proceeding shall lie in respect of any Bar to suits and other act done in the exercise of any power conlegal proceedings.

 ferred by this Act on the Local Government or the Council or the Registrar.
- 28. (1) Every Registrar of Deaths who receives notice of the

 Notice of deaths, and death of any person whose name he knows

 erasure of names from register.

 to be entered in the register of registered practitioners shall forthwith transmit by post to the Registrar of the Council a certificate of such death, signed by him and stating particulars of the time and place of death.
 - (2) On receipt of-
 - (a) any such certificate, or
 - (b) any other reliable information regarding such death;
 Registrar of the Council shall erase the name of the decease

the Registrar of the Council shall erase the name of the deceased person from the register.

- Penalty on unregistered registered practitioners falsely pretends that registered. registered, or uses in connection with his name or title any words or letters representing that his name is so entered, he shall, whether any person is actually deceived by such representation or not, be punishable, on conviction by a Presidency Magistrate or a Magistrate of the first class, with fine which may extend to three hundred rupees.
- 30. The expression "legally qualified medical practitioner," or Construction of references "duly qualified medical practitioner," and in Acts to medical practi- all other expressions importing a person recognized by law as a medical practitioner or a member of the medical profession, as used in any Bengal Act or any Act of the Governor-General of India in Council in force in Bengal, shall be deemed to mean a medical practitioner registered under the Medical Acts or this Act; and

no certificate required to be given by any medical practitioner or medical officer under any Bengal Act or any Act of the Governor-General of India in Council in force in Bengal shall be valid unless such practitioner or officer is registered under the Medical Acts or this Act.

31. Except with the special sanction of the Local Government,
Unregistered persons not to hold certain appoint or shall be competent to hold any appointment as medical officer of health, or as physician, surgeon or other medical officer in any hospital, asylum, infirmary, dispensary or lying-in-hospital which is supported partially or entirely by public or local funds.

Annual Medical List.

1914.

- 32. (1) The Registrar shall, in every year, on or before a date Act 6.

 Publication and use of to be fixed in this behalf by the Council, cause annual Medical List. to be printed and published a correct list of the names for the time being entered in the register of registered practitioners, and setting forth—
 - (a) all names entered in the register, arranged in alphabetical order according to the surnames,
 - (b) the registered address or appointment of each person whose name is entered in the register, and
 - (c) the registered titles and qualifications of each such person, and the date on which each such title was granted or each such qualification was certified.
- (a) Every Court shall presume that any person whose name is entered in the latest of such lists is duly registered under this Act, and that any person whose name is not so entered is not registered under this Act:

Provided that, in the case of any person whose name does not appear in such list, a certified copy, signed by the Registrar, of the entry of the name of such person in the register of registered practitioners, shall be evidence that such person is registered under this Act.

Rules and Regulations.

Rules and Regulations.

33. (r) The Local Government may from time to time make rules to carry out the purposes of this Act.

- (2) In particular, and without prejudice to the generality of the foregoing power, the Local Covernment may make rules—
 - (a) to regulate elections under clauses (c) to (f) of section 4 and to prescribe, for the purposes of the proviso to section 4, the area to be included within Calcutta;
 - (b) to prescribe the form of the register of registered practitioners to be maintained under this Act;
 - (c) to regulate the application of fees under section 22;
 and
 - (d) to regulate the procedure to be followed by the Council
 - (i) conducting any inquiry referred to in proviso (b) to section 17, or clause (a) of section 25; and
 - (ii) disposing of appeals from the decision of the Registrar preferred under section 23.

1914. Act 6.

- (3) In addition to the power conferred by section 12 the Council may, with the previous sanction of the Local Government make regulations—
 - (a) to prescribe the fees chargeable in respect of any registration under this Act; and
 - (b) to regulate the keeping of accounts of such fees.
- (4) All such rules and regulations shall be published in the Calcutta Gasette.

THE SCHEDULE.

Persons who are entitled to have their names entered in the Register of Registered Practitioners. (See sections 17, 18, 19 and 20.)

- 1. Every person who is for the time being registered or qualified to be registered under the Medical Acts.
- 2. Every Doctor, Bachelor or Licentiate of Medicine, or Master of Obstetrics or Master, Bachelor or Licentiate of Surgery, of the University of Calcutta, Bombay, Madras, Allahabad or Lahore.
- 3. Every person who has been trained in a Government Medical College or School in India, or in a Medical School in India not maintained but recognized by the Local Government, for the purposes of this Schedule, by notification in the Calcutta Gazette, and holds a diploma or certifiate, granted by the Government or granted by Medical School not maintained by Government but recognized as aforesaid, declaring him to be qualified—
 - (a) to practise, medicine surgery and midwifery, or
 - (b) to perform the duties of a Military Assistant Surgeon Hospital Assistant or sub-Assistant Surgeon.

BEN. ACT NO. VII. OF 1914.

The Bengal Excise (Amendment) Act.

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BEN. ACT NO. VII. OF 1914.

The Bengal Excise (Amendment) Act.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 14TH OCTOBER, 1914.]

An Act to amend the Bengal Excise Act, 1909.

WHEREAS it is expedient to amend the Bengal Excise Act, 1909, in the manner hereinafter appearing;

And whereas it is also expedient to extend that Act, as hereby amended, to Eastern Bengal;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows:-

Short title and commencement.

1. (1) This Act may be called the Bengal Excise (Amendment) Act, 1914; and

- (2) It shall come into force on such date as the Local Government may, by notification in the Calcutta Gasette, direct.
- 2. In this Act, "Eastern Bengal" means the territory men-Definition of "Eastern tioned in Part I. of Schedule A to the Ben-Bengal." gal, Bihar and Orissa and Assam Laws Act, 1912, except the Chittagong Hill tracts.

Extension of Bengal Act V. of 1909, as amended by this Act, to Eastern Bengal.

- 3. The Bengal Excise Act, 1909, as amended by this Act, is hereby extended to Eastern Bengal.
- 4. In the first paragraph of the preamble to the Bengal ExAmendment of the preamble to Bengal Act V. of Act, for the words "intoxicating liquor"
 1909. the words "alcoholic liquor" shall be substituted.

Elimination of references in Bengal Act V. of 1909 to the Board of Revenue.

- 5. (1) The following portions of the said Act are hereby repealed, namely:—
- (a) clause (2) of section 2;
- (b) the words "the Board" in clauses (e) and (g) of section 7 and in clause (b) of section 85;
- (c) the words "it or" in clause (g) of section 7; and
- (d) section 87.
- (2) In sections 5, sub-section (1), 8, sub-section (3), 10, 19, sub-sections (1) and (3), 35, 36, 38, sub-section (1), 41, sub-section

(2), and 86 of the said Act, for the word "Board," wherever it 1914. occurs, the words "Local Government" shall be substituted.

Act 7.

(3) In section 14, sub-section (3), 25, sub-section (2), 28 (second proviso) and 30 of the said Act, for the word "Board" the words "Excise Commissioner" shall be substituted.

Amendment of section 2 6. In section 2 of the said Act, of Bengal Act V. of 1909.

- (1) after clause (1) the following shall be inserted, namely:—
- "(1A) 'Bengal' means the Presidency of Fort William in Bengal;"
- (2) after clause (4) the the following shall be inserted, namely:-
 - "(4A) 'cocaine' includes—
 - (i) coca leaves,
 - (ii) alkaloids of coca.
 - (iii) every drink or substance prepared from the coca plant (Erythroxylum coca).
 - (iv) every drug, synthetic or other, having a like physiological effect to that of cocaine, and
 - (v) every preparation or admixture of any article hereinbefore mentioned:"
 - (3) for clause (6) the following shall be substituted, namely:
 - "(6) 'denaturant' means any substance prescribed, by rule made in this behalf under clause (3) of section 86, for admixture with spirit in order to render the mixture unfit for human consumption, whether as a beverage, or internally as a medicine, or in any other way whatsoever;
 - (6a) to 'denature' means to mix spirit with one or more denaturants in such manner as may be prescribed by rule made in this behalf under clause (3) of section 86, and 'denatured spirit 'means spirit so mixed."
 - (4) in clause (13),—
 - (i) the word "intoxicating" in sub-clauses (ii) and (iii) is hereby repealed.
 - (ii) the word "and" at the end of subsclause (ii) is hereby repealed, and
 - (iii) after sub-clause (ii) the following shall be inserted, namely:-
 - "(iia) cocaine, and;

• / 4

1914. Act 7.

- (5) in clause (14),—
 - (a) for the words "intoxicating liquor" the words "liquid consisting of or containing alcohol" shall be substituted, and
 - (b) the words "all liquid consisting or containing alcohol" are hereby repealed;
- (6) at the end of sub-clause (tii) of clause (15) the words "or for the reduction of liquor for sale" shall be added; and
- (7) in clause (17), after the word "raft" the word "vehicle" shall be inserted.
- 7. in section 9, sub-section (2), and in section 27, sub-section
 Amendment of sections 9 (3), of the said Act, for the words and
 and 27. figures "and was liable on such importation
 to duty under the Indian Tariff Act, 1894, or the Sea Customs Act,
 1878," the following shall be substituted, namely:—
 - " if-
 - (i) the duty (if any) imposed on such importation under the Indian Tariff Act, 1894, or the Sea Customs Act, 1878, has been paid, or
 - (ii) a bond has been executed for the payment of such duty."
 - Amendment of section 13.

 8. After proviso (i) to section 13 of the said Act, the following shall be inserted, namely:—
 - "(ia) for the purpose of being used solely for the preparation of food for domestic consumption, and
 - (i) as an intoxicant, or
 - (ii) for the preparation of any intoxicating article, or
 - (iii) for the preparation of any article for sale, or."
 - Amendment of section 18, g. After clause (f) section 18 of the said Act, the following shall be inserted, namely:
 - "(ff) tari intended to be used solely for the preparation of food for domestic consumption, and not—
 - (i) as an intoxicant, or
 - (ii) for the preparation of any intoxicating article, or
 - (iii) for the preparation of any article for sale, or."

10. After clause (c) of section 19 of 1914. Amendment of section 19. the said Act, the following shall be inserted, Act 7. namely:-

- "(d) tari intended to be used solely for the preparation of food for domestic consumption, and not-
- (i) as an intoxicant, or
- (ii) for the preparation of any intoxicating article, or
- (iii) for the preparation of any article for sale."

Amendment of section 20.

- 11. In section 20 of the said Act,—
- (a) to proviso (1) the following shall be added, namely:—
 - "or by a Collector specially authorized in that behalf by the Excise Commissioner:"
- (b) after proviso (1) the following shall be inserted, namely:-
 - "(la) a license for sale granted under the Excise Law in force in any other Province may, on such conditions as may be determined by the Excise Commissioner, be deemed to be a license granted under this Act:"
- (c) in proviso (3) (b), after the words "sale of tari" the words "lawfully possessed" shall be inserted;
- (d) in proviso (3)(c) and (d), after the words "sale of tari" the words "lawfully possessed and" shall be inserted; and
- (e) at the end of proviso (3) the following shall be added, namely:
- " or
- (e) the sale of tari lawfully possessed and intended to be used solely for the preparation of food for domestic consumption, and not-
 - (i) as an intoxicant, or
 - (ii) for the preparation of any intoxicating article, or
 - (iii) for the preparation of any article for sale."
- 12. At the end of section 22, sub-sec-Amendment of section 32. tion (2), of the said Act, the words "or the Excise Commissioner" shall be added.
- 18. In sub-clause (ii) of clause (d) of section 28 of the said Amendment of section Act, for the words "an acreage rate levied on the cultivation or collection of the hemp

1914. plant (Cannabis sativa) under" the following shall be substituted, namely:—

"a rate assessed on the area covered by, or on the quantity or outturn of, the crop cultivated or collected under."

Repeal of section 39.

14. Section 39 of the said Act as hereby repealed.

Amendment of section

15. For section 44, sub-section (1), of the said Act, the following shall be substituted, namely:—

- "(1) Any holder of a license granted under this Act to sell an excisable article may, unless his license is liable to cancellation or suspension under section 42, surrender the same on—
 - (i) the expiration of one month's notice in writing given by him to the Collector of his intention to surrender it, and
 - (ii) payment of the fees payable for the license for the whole period for which it would have been current but for such surrender:
- Provided that, if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a license, he may remit to the holder thereof the sum so payable on surrender, and any fees paid in advance, or any portion of such sum or fees."

New section 44A.

- 16. After section 44 of the said Act, the following shall be inserted, namely:—
- Bar to right of renewal under this Act shall have any and to compensation claim to the renewal of such license, or, save as provided in section 43, any claim to compensation on the determination thereof."

Repeal of proviso to section 45.

17. The proviso to section 45 of the said Act is hereby repealed.

Amendment of sections 46 and 52.

18. For the word "three" in sections 46 and 52 of the said Act, the word "six" shall be substituted.

Addition of proviso to section 46.

19. To section 46 of the said Act, the following shall be added, namely:—

"Provided that, if any person is convicted under this section of any offence committed in respect to cocaine, he shall be liable to imprisonment for a term which may extend to one year, or to fine which may extend to two thousand rupees, or to both." New section 48.

20. For section 48 of the said Act, the following shall be substituted namely:—

1914. Act 7.

- "48. If any person alters or attempts to alter any denatured

 Penalty for altering or spirit, whether manufactured attempting to alter any in British India or not, with denatured spirit.

 the intention that such spirit may be used for human consumption, whether as beverage, or internally as a medicine, or in any other way whatsoever, by any method whatsoever,
- or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made,
- he shall be liable to imprisonment for a term which may extend to six months, or to fine which may extend to one thousand rupees, or to both.

New sections 48A and 48B. 21. After section 48 of the said Act, the following shall be inserted namely:—

- Presumption as to of person is proved to have been fence under section 48 in possession of any sprit certain cases. which is, or contains, or has been derived from denatured sprit, and in respect of which any such alteration or attempt as is referred to in section 48 has been made, if may, from the mere fact of such possession, be presumed, unless and until the contrary is proved that such person—
 - (i) has himself made such alteration or attempt, or
 - (ii) knows or has reason to believe that such alteration or attempt has been made.
- 48B. In any prosecution under this Act it may be presumed,

 Presumption as to any unless and until the contrary is proved, that any spirit which denaturant.

 denaturant is, or has been derived from, denatured spirit."

Amendment of section 49.

Amendment of section 49.

Let words "the Indian Penal Code," the following shall be inserted, namely:—

" of

has in his possession any excisable article in respect of which such admixture has been made."

23. In section 55 of the said Act,—

1746 BENGAL EXCISE (AMENDMENT) ACT.

1914. Act 7.

- (a) before the word "manufactured," wherever it occurs in sub-section (1), the words "imported, exported, transported" shall be inserted;
- (b) before the word "manufacture" in sub-sections (1) and (2), the words "import, export, transport" shall be inserted; and
- (c) before the word "manufactures" in sub-section (2), the words "imports, exports, transports" shall be inserted.

Amendment of section 62. 24. (1) in secton 62 of the said

- (a) after word and figures "section 46" the word and figures "section 48" shall be inserted; and
- (b) after the words "in any enactment repealed by this Act the words and figures "or in the Eastern Bengal and Assam Excise Act, 1910," shall be inserted.
- (2) To the said section 62 the following shall be added, namely:—
 - "Provided that nothing in this section shall prevent any offence, which might otherwise have been tried summarily under Chapter XXII. of the Code of Criminal Procedure, 1898, from being so tried."
 - 25. In the first proviso to section 64, sub-section (2), of the said Act, for the words "one month" the words "two months" shall be substituted.

Amendment of section 65. 26. In section 65 of the said Act,—

- (a) after the words "Deputy Collector" in sub-section (1)
 the words "or Superintendent of Excise" shall be
 inserted; and
- (b) for the words and figures "section 49, section 51, section 54 or section 59" in clause (a) the words and figures "any section of this Act other than section 58" shall be substituted.

Amendment of section 66. 27. After clause (ii) of section 66 of the said Act, the following shall be inserted, namely:—

"(iia) examine the accounts and registers maintained in any such place as aforesaid; and."

28. In section 68 of the said Act,-

- (a) after the word "Collector" the words "or any Magistrate empowered to try offences punishable under this Act," Act 7.
- (b) after the word "committed" the words "or abetted the commission of."

shall be inserted.

Amendment of section 69.

29. In section 60 of the said Act,—

- (a) for the word "Magistrate" the words "any Magistrate empowered to try offences punishable under this Act" shall be substituted;
- (b) after the word "committed," wherever it occurs, the words "or abetted" shall be inserted; and
- (c) at the end, the following shall be added, namely:

any document which throws or is likely to throw any light on the alleged offence."

New section 69A.

30. After section 69 of the said Act, the following shall be inserted, namely:—

Power of Collector or Magistrate to arrest or search without issuing a warrant. "69A. The Collector, or any Magistrate empowered to try offences punishable under this Act, may at any time—

- (a) arrest, or direct the arrest in his presence of, any person for whose arrest he is competent at the time and in the circumstances to issue a warrant under section 68, or
- (b) search, or direct a search to be made in his presence of, any place for the search of which he is competent to issue a search-warrant under section 69."

Amendment of section 70.

31. In section 70 of the said Act,-

- (a) the words "a Collector or" shall be repealed; and
- (b) after the word "committed," wherever it occurs, the words "or abetted" shall be inserted.
- 32. In section 71, sub-section (1), of the said Act, for the words

 "the Commissioners for the Port of Calcutta" the words "a body of Port Commissioners" shall be substituted.
 - 33. In clause (k) of section 85 of the said Act, before the words and figures "sections 66 and 67" the words and figures "section 65, clause (a), and "shall be inserted.

1914. New section 92A.

34. After section 92 of the said Act, the following shall be inserted, namely:—

Bar to application of section 261 of the Bengal Municipal Act, 1884. "92A. Section 261 of the Bengal Municipal Act, 1884, shall not apply to—

- (a) any distillery, brewery, ware-house or other place of storage licensed, established, authorized or continued under this Act, or
- (b) the premises used for the manufacture or sale of any excisable article by the holder of a license granted under this Act for such manufacture or sale."

Repeal of Eastern Bengal and Assam Act 1. of 1910. Excise Act, 1910, is hereby repealed.

- (2) Every appointment, order, rule, notification or form made or issued under the said Act shall, so far as it is not inconsistent with the Bengal Excise Act, 1909 (as amended by this Act), continue in force, and be deemed to have been made or issued under that Act, unless and until it is superseded by any appointment, order, rule, notification or form made or issued under that Act.
- (3) Every license, permit or pass which was granted under any section of the Eastern Bengal and Assam Excise Act, 1910, or of any Act repealed thereby, and is in force at the commencement of this Act, shall be deemed to have been granted under the corresponding section of the Bengal, Excise Act, 1909 (as amended by this Act), and shall (unless previously cancelled, suspended, withdrawn, or surrendered under that Act) remain in force for the period for which it was granted.

BEN. ACT NO. I. OF 1915.

1915. Act 1

The Calcutta Port (Amendment) Act, 1915.

[Published in the Calcutta Gazette of the 10th March, 1915.]

An Act further to amend the Calcutta Port Act, 1890.

WHEREAS it is expedient further to amend the Calcutta Port Act, 1890;*

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Calcutta Port (Am endment) Act, 1915.
- New section 13A for Ben. Act III of 1890.
- 2. After section 13 of the Calcutta Port Act, 1890,* the following section shall be inserted, namely:—
- "13A. It shall further be lawful for the Local Government to

 Pension for Vice-Chair. fix, on application made to it

 man. by the Commissioners in that

 behalf, the amount of pension, gratuity or com
 passionate allowance (if any) which shall be paid to

 the Vice-Chairman on his retirement from office, and

 to determine the conditions under which the said

 pension, gratuity or compassionate allowance shall be

 so payable:

Provided as follows:-

- (a) the amount of any such pension, gratuity or compassionate allowance shall in no case, without the special sanction of the Government of India, exceed what would be admissible in the case of Government servants of similar standing and status, and
- (b) the conditions aforesaid shall not, without similar sanction, be more favourable than those for the time being prescribed for such Government servants."

^{*} Ben. Act III. of 18go.

1915.

BEN. ACT NO. II. OF 1915.

Act 2.

The Bengal Steam-boilers and Prime-movers (Amendment) Act, 1915.

[Published in the Calcutta Gazette of the 31st March 1915.]

An Act further to amend the Bengal Steam-boilers and Primemovers Act, 1879.

WHEREAS it is expedient further to amend the Bengal Steamboilers and Prime-movers Act, 1879,* in the manner hereinafter appearing;

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Bengal Steam-boilers and Prime-movers (Amendment) Act, 1915.
- 2. For the third paragraph of section 1 of the Bengal Steam-Amendment of section 1 boilers and Prime-movers Act, 1879* (hereof Ben. Act III. of 1879. inafter called the said Act), the following shall, be substituted, namely:—
 - "Nothing in this Act shall apply—
 - (a) to any locomotive engine used upon any railway or any steam-vessel in the port of Calcutta, or
 - (b) to any boiler or prime-mover used exclusively for domestic purposes at atmospheric pressure, or
 - (c) to any boiler or prime-mover or class of boilers or prime-movers, which the Local Government may, by order, specify in this behalf."
- 3. In section 3 of the said Act, the following definition shall be inserted after the definition of "owner," namely:—
 - "'Inspector' means any person appointed under section 4 to exercise the powers and perform the duties of an inspector under this Act."
 - Am endment of section 4. For section 4 of the said Act, the following section shall be substituted, namely:—
 - "4. (1) The Local Government may from time to time, by

 notification in the Calcutta
 Gasette, make rules for carrying out the purposes and objects of this Act.

BENGAL STEAM-BOILERS, &c. (AMENDI.) ACT. 1751

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

1915. Act 2.

- (a) provide for the appointment of inspectors under this Act:
- (b) prescribe the powers and duties of such inspectors and regulate the period of their service;
- (c) regulate the grant of leave to such inspectors and authorize the payment of leave-allowances to the said inspectors;
- (d) prescribe the remuneration to be paid to any person appointed to act for an inspector during his absence on leave:
- (e) prescribe the conditions under which an inspector shall, on retirement, receive a pension, gratuity or compassionate allowance, and the amount of such pension, gratuity or compassionate allowance;
- (/) prescribe the conditions under which a pension, gratuity or compassionate allowance may be paid to any inspector injured, or to the relatives of any inspector killed, in the execution of his duty, or who may die in such exceptional circumstances as would, in the opinion of the Government of India, justify the payment of a pension, gratuity or compassionate allowance to his relatives had he been in Government service, whether the injury or death occurred before or after the commencement of the Bengal Steam boilers and Prime-movers (Amendment) Act, 1915;
- (g) fix the fees payable on account of certificates granted under this Act;
- (h) prescribe the time for which certificates granted under this Act shall remain in force;
- (i) provide for the attendance of assessors and prescribe a penalty for non-attendance;
- (j) regulate the procedure on hearing appeals.
- (3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.
- (4) The date to be specified as that on or after which a draft of rules proposed to be made under this section will be taken into consideration shall not be less than one month from the date on which the draft of the proposed rules was published for general information."

1015.

BEN. ACT NO. III. OF 1915.

Act 3.

The Calcutta Improvement (Amendment) Act, 1915.

[Published in the Calcutta Gazette of the 14th April, 1915.]

An Act to amend the Calcutta Improvement Act, 1911.*

WHEREAS it is expedient to amend the Calcutta Improvement Act, 1911;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Council Act, 1892,† to section 9 of this Act which affects an Act passed by the Governor-General of India in Council;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Calcutta Improvement (Amendment) Act, 1915.

Amendment of section 2 of Ben Act V. of 1911.

- 2. In section 2 of the Calcutta Improvement Act, 1911,* (hereinafter called the said Act).—
- (a) after clause (a), the following definition shall be inserted, namely:—
 - "(aa) 'building line' means a line (in rear of the street alignment) up to which the main wall of a building abutting on a projected public street may lawfully extend;
 - (b) at the end of clause (f), the words and figures "but does not include a projected public street referred to in section 63" shall be added; and
 - (c) in clause (n), the expression "building line" and the figure and brackets "(3)" shall be repealed.

New section substituted for section 63 of the said Act the following shall be substituted, namely:—

"63. (1) The Board may from time to time in regard to any area—

(a) within the Calcutta Municipality, or

Projected public street.

(b) in the neighbourhood of the said Municipality,

make plans of proposed public streets showing the direction of such streets, the street alignment and building line (if any), on

^{*} Ben. Act V. of 1011.

each side of them, their intended width and such other details as may appear desirable.

1915 Act 8

- (2) When a plan of a proposed public street has been made under sub-section (1), the Board shall prepare a notice stating—
 - (a) the fact that such plan has been made,
 - (b) particulars of the land (shown in such plan) through which the proposed public street will pass,
 - (c) the place at which the said plan and particulars may be seen at reasonable hours, and
 - (d) the period (which shall be not less than sixty days) within which objections to the said plan may be submitted to the Board;

and the Board shall thereupon-

- (i) cause the said notice to be published weekly for two consecutive weeks in the Calcutta Gazette and in local newswpapers, and in such other manner as the Board may direct, and
- (ii) forward a copy of the said notice to any person whose name appears in the municipal assessment book as being primarily liable to pay the owner's share of the consolidated rate, or the rate on the annual value of holdings, as the case may be, in respect of any land included within the proposed public street, and
- (iii) forward a copy of the said notice and of the plan to which it relates to the Chairman of the Corporation and, if any area in the neighbourhood of the Calcutta Municipality is included in such plan, to the Chairman of the local authority administering any portion of such area, and
- (iv) cause copies of the notice and plan to be delivered to any applicant on payment of such fee as may be prescribed by rule made under section 138.
- (3) On or after a date (not being less than sixty days from the date of the first publication of the notice) to be appointed by the Board in this behalf, the Board shall consider—
 - (a) all objections in writing received from any person affected by the proposed public street contemplated by such plan and
 - (6) any representation in regard to such street made to the Board by the Corporation or the aforesaid local authority;

and the Board may thereupon either withdraw the plan or apply to the Local Government for sanction thereto with such modifications (if any) as the Board may consider necessary.

1754 CALCUTIA IMPROVEMENT (AMENDI.) ACT.

1915. Act 3.

- (4) If the Board apply for sanction as provided in sub-section (3), they shall simultaneously forward to the Local Government a full statement of all objections and representations made to them under the said sub-section.
- (5) Where a plan of a proposed public street has been submitted to the Local Government under sub-section (3), the Board shall cause notice of the fact to be published for fwo consecutive weeks in the Calcutta Gazette and in local newspapers.
- (6) The Local Government may sanction, either with or without modification, or may refuse to sanction, any plan of a proposed public street submitted to it under sub-section (3).
- (7) Whenever the Local Government sanctions a plan of a proposed public street, it shall announce the fact by notification, and the publication of such notification shall be conclusive evidence that the plan has been duly made and sanctioned;

and the proposed public street to which such notification refers shall be deemed to be a projected public street, and shall be so deemed until—

- (a) such street has been declared, under section 65 or section 66, as the case may be, to be a public street, or
- (b) the said notification has been cancelled by another notification:

Provided that such cancellation shall not affect the validity of any action taken by the Board in pursuance of the said notification.

(8) If any person desires to erect, re-erect or add to any wall (exceeding ten feet in height) or building which falls within the street alignment or building line of a projected public street shown in any plan sanctioned by the Local Government under this section, he shall submit an application in writing to the Chairman for permission so to do:

Provided as follows:-

- (i) no such application shall be necessary for permission to erect or re-erect, between a building line and the street alignment,—
 - (a) a porch or balcony, or,
 - (b) along not more than one-third of the frontage, an outhouse not exceeding fifteen feet in height;
- (ii) nothing in this sub-section shall relieve any person from the liability to obtain such sanction as it may be necessary to obtain under any law for the time being in force from any local authority.
- (9) The Chairman shall in no case refuse an application submitted under sub-section (8) if the applicant executes an agreement binding himself and his successors in interest to remove, without

compensation, any wall or building to which that application relates, in the event of the Board—

1915. Act 8,

- (a) deciding (at any time after an improvement scheme has been sanctioned under section 48 for an area within which such building or wall, is situate) that the said wall or building, or any portion thereof, ought to be removed, and
- (b) calling upon the owner for the time being, by written notice, to remove the same within a time (not being less than sixty days from the date, of the service of the notice) to be specified in the said notice.
- . (10) If the Chairman does not, within thirty days from the receipt of an application submitted under sub-section (8), grant or refuse the permission applied for thereunder, such permission shall be deemed to have been granted.
- (11) If the Chairman refuses permission to any person to erect, re-erect or add to any wall or building as aforesaid which falls—
 - (i) within the street alignment, or
 - (11) between the street alignment and the building line of a projected public street,

the owner of the land on which it was sought to erect, re-erect or add to such wall or building, may call upon the Board, at any time within three months from the date of such refusal, either—

- (a) to pay him compensation for any damage sustained by him in consequence of such refusal, or
- (b) to acquire so much of his land as falls within the street alignment, or between the street alignment and the building line, as the case may be;

and the Board shall thereupon-

in case (a), make full compensation to the said owner for any damage which he may be found to have sustained in consequence of such refusal, and

in case (b), forthwith take steps to acquire the said land:

Provided that, in the case of such land as falls within the street alignment only, it shall be optional with the Board to acquire the same in lieu of paying compensation therefor.

- (12) An appeal shall lie to the Board from any refusal by the Chairman to grant an application under this section."
- Amendment of section words and figures "or clause (iv) of subsection (2) of section 63" shall be added.

1756 CALCUTTA IMPROVEMENT (AMENDT.) ACT.

1915.

Act 3.

- 5. In section 171 of the said Act, for the words "If any person amendment of section without the permission of the Board, erects, re-erects, adds to, or alters any building or wall so as to make the same fall within the street alignment or building line shown in any plan finally adopted by the Board under section 63," the following shall be substituted, namely:—
 - "If any person, without the permission of the Chairman required by section 63, sub-section (8) erects re-erects or adds to any wall (exceeding ten feet in height) or building which falls within the street alignment or building line of a projected public street shown in any plan sanctioned by the Local Government under the said section.

New section 171A.

6. After section 171 of the said Act the following shall be inserted, namely:—

Penalty for failure to remove wall or building in respect of which agreement has been executed.

- "171A. If the owner for the time being of any wall or building in respect of which an agreement has been executed as provided in section 63, sub-section (9), fails—
- (a) to remove such wall or building, or any specified portion thereof, when so required by notice issued under that sub-section, or
- (b) within fifteen days from the receipt of such notice, to authorize the Chairman, by permission in writing, to remove the said wall, building or portion,

he shall be punishable—

- (1) with fine which may extend, in the case of a masonry wall or building, to one hundred rupees, and, in the case of a hut, to twenty rupees and
- (ii) with further fine which may extend, in the case of a masonry wall or building, to ten rupees, and, in the case of a hut, to five rupees, for each day after the first during which the failure continues."

Repeal of section 172.

7. Section 172 of the said Act is hereby repealed.

New section 174A.

8. After section 174 of the said Act the following heading and section shall be inserted, namely:—

" Recovery of Expenses.

Removal of wall or build-section (9), for the removal of a wall or ing and recovery of expenbuilding, or any portion thereof, is not complied with by the owner thereof for the

time being as provided in section 171A, the Chairman may proceed to remove such wall, building or portion, and the expenses incurred in effecting such removal shall be recoverable by sale of the materials or other things removed."

1915. Act 3.

Amendment of Article 9 of the Schedule.

- 9. After clause (b) in Article 9 of the Schedule to the said Act the following shall be inserted, namely:—
- "(bb) if the market-value has been increased or decreased owing to the land falling within or near to the alignment of a projected public street, so much of the increase or decrease as may be due to such cause shall be disregarded;
- (bbb) if any person, without the permission of the Chairman required by section 63, sub-section (8), of the Calcutta Improvement Act, 1911,* has erected, recreted or added to any wall (exceeding ten feet in height) or building within the street alignment or building line of a projected public street, then any increase in the market-value resulting from such erection, re-erection or addition shall be disregarded."

^{*} Ben. Act V. of 1911.

1757A BENGAL EMBANKMENT (SUNDARBANS) ACT.

1915.

BEN. ACT NO. IV. OF 1915.

Act 4.

The Bengal Embankment (Sundarbans) Act, 1915.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 14TH APRIL, 1915.]

An Act to extend to the Sundarbans certain enactments relating to Embankments.

WHEREAS it is expedient to extend to the Sundarbans certain enactments relating to Embankments;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows: -

Short title.

- 1. This Act may be called the Bengal Embankment (Sundarbans) Act, 1915.
- 2. The following enactments are hereby extended to the Sun-Extension of enactments darbans, as excluded under section 1 of the to the Sundarbans. Bengal Embankment Act, 1882,† namely:—
 - (1) the following portions of the Bengal Embankment Act, 1873,‡ namely, section 12, section 13, the proviso to section 21, sections 26, 27, 28 and 29, and Schedules B, C and D, subject to the amendments made in the said sections 12, 21 and 26 by the second paragraph of section 2 of the Bengal Embankment Act, 1882;† and
 - (2) the Bengal Embankment Act, 1882,† except such portions thereof as have been repealed.

Repeal.

3. (1) The Bengal Embankment Acts, 1855 and 1866, are hereby repealed.

(2) The words and figures "the Sundarbans, as defined under the provisions of clause 2, section 13, Regulation III. of 1828, and," in section 1 of the Bengal Enbankment Act, 1882,† are hereby repealed.

Ben. Act VII. of 1866.

 ^{55 &}amp; 56 Vict., c. 14.
 Ben. Act II. of 1882.

[‡] Ben. Act VI. of 1873. § Act XXXII. of 1855.

BEN. ACT NO V. OF 1915.

1915, Act 5

The Bengal Decentralization Act, 1915.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 27TH OCTOBER, 1915.]

An Act to decentralize and otherwise to facilitate the administration of certain enactments in force in Bengal.

WHEREAS it is expedient to decentralize and otherwise to facilitate the administration of certain enactments in force in Bengal;

And whereas the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892,* to the passing of this Act;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Bengal Decentralization Act, 1915.

- 2. The enactments specified in the third column of the Schedule

 Amendment of certain are hereby amended, to the extent and in

 enactments. the manner specified in the fourth column,

 in the areas specified in the fifth column thereof.
- 3. Any appointment, notification, order, scheme, rule, form or Saving of orders, etc., issued by previous authorities.

 by-law made or issued by an authority for the making or issuing of which a new authorities.

 rity is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by an appointment, notification, order, scheme, rule, form or by-law made or issued by such new authority.

^{* 55 &}amp; 56 Vict., c. 14.

THE SCHEDULE.

PART I. Rengal Regulations.

Year.	No.	Short Title.	Amendments.	Areas in which amendments are to have effect.
ı	2	3	4	5
1793	11.	The Bengal Land Revenue Regulation, 1793.	Clause Tenth of section 8 is repealed.	All areas in Ben- gal in which the Regulation, is in force.
1810	XIX.	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.	In section 7, for the words "re- port to Government whether it should in their opinion" substi- tute the words "direct whether it should."	Ditto.
1822	VII.	The Bengal Land-revenue Settlement Re- gulation, 1822.	In section to, clause First, second paragraph,— (i) the amendment made by the Amending Act, 1903, Schedule II., Part I, is repealed; and	
			(ii) for the words "shall be competent to the Governor General in Council" substitute the words "shall be competent to the Local Government or such other authority to whom the power to confirm settlements may be delegated by the Local Government by notification in the local official Gazette."	
1825	IX.	The Bengal Land-revenue Settlement Re- gulation, 1825.	In section 4, first paragraph,— (i) omit the words " and subject to the orders of Government;" (ii) the amendment made by the Amending Act, 1903, Schedule II., Part I., is re-	
			pealed; and (iii) for the words "Governor- General in Council" substitute the words "Board of Revenue."	

THE SCHEDULE—contd.

PART II.

Bengal Acts.

Year.	No	Short title.	Amendments.	Areas in which amendments are to have effect.
ı	2	3 -	4	5
1866	П	The Calcutta Suburban l'o- lice Act, 1866.	In section 47A, sub-section (4), for the words "with the previous anction" substi- tute the words 'subject to the control."	The suburbs of Calcutta as de- fined in section 1.
1866	IV.	The Calcutta Police Act, 1866.	1. In section 6, omit the words "with the sanction of the Governor-General of India in Council. Council Counci	The town of Cal-
		•	2. In section 78A, sub-section (4), for the words " with the previous sanction" substitute the words " subject to the control."	in section 3.
1871	IV.	The Puri Lodg- ing-house Act, 1871.	In section 2, and in section 22, for the words "Lieutenant-Governor of Bengal" substitute the words "Commissioner of the Division."	All areas in Bengal in which the Act is in force.
1875	`V.	The Bengal Survey Act, 1875.	t. In section 58, for the words "Board of Revenue," in both places in which they occur, substitute the words "Local Government."	
			2. In section 63, for the words "With the sanction of the Lieutenant-Governor, the Board of Revenue" substi- tute the words "The Local Government."	Ditto.
1876	VII.	The Land Registration Act, 1876.	In section 64, second proviso, for the word "Board" sub- stitute the words "Com- missioner of the Division."	Ditto.
1879	IX.	The Court of Wards Act, 1879.	I. In clause (e) of section 6, for the words "Local Govern- ment" substitute the word "Court."	Ditto.

THE SCHEDULE-contd.

PART IL-contd.

Year.	No.	Short Title	Amendments.	Areas in which amendments are to have effect.
1	2	3	4 -	5
1879 —cld.	IX. —cld.	The Court of Wards Act, 1879—cld.	2. In section 15, second paragraph, omit the words "with the sanction of the Lieutenant-Governor" and also the words "with the like sanction."	All areas in Bengal in which the Act is in force.
1880	VI.	The Bengal Drainage Act, 1880.	In section 39, for the words "Board of Revenue" substitute the words "Commissioner of the Division."	Ditto.
1880	IX.	The Cess Act, 1880.	 In the definition of "year" in section 4, for the words "Lieutenant-Governor" substitute the words "Board of Revenue." In section 11, for the words "Lieutenant-Governor" substitute the words "Board of Revenue.") Ditto.
			(i) for the words "Lieutenant-Governor," in the three places in which they occur, substitute the words "Board of Revenue;" and (ii) for the word "he" substitute the word "they." 4. In section 14,— (i) in the first paragraph, for the words "Lieute n an t-Governor" substitute the words "Board of Revenue," and after the words "has ordered" insert the words and figures "under section 12;" and	All districts in the Chittagong, Dacca and Rajshahi Divisions (except the district of Darjeeling).

THE SCHEDULE.—contd.

PART II .- contd.

Year.	No.	Short Title.	Amendments.	Areas in which amendments are to have effect.
t '	2	3	4	5
1880 —ctd.	IX. —ctd.	The Cess Act 1880—contd.	(ii) in the second paragraph for the words "Lieu- ten ant-Governor" substitute the words "Board of Revenue,"	
			5. In section 15,—	
			(i) for the words "Lieuten- ant-Governor" sub- stitute the words "Board of Re- venue;" and	
			(ii) for the word "he," in the two places in which it occurs, sub- stitute the word "they."	Dacca and Raj
•			6. In section 16 for the words "Lieutenant-Governor" substitute the words "Board of Revenue."	Darjeeling).
•			7. In section 36, for the words "Lieutenant-Governor" substitute the words "Board of Revenue."	
.!			8. In section 37, for the words "Board of Revenue" substitute the word "Commissioner."	
			9. In section 42, for the words "Lieutenant-Governor," in the two places in which they occur, substitute the words "Board of Revenue."	All areas in Benga in which the Act is in force.

THE SCHEDULE-contd.

PART II .- contd.

	0				
Year.	No.	Short Title	Amendments	Areas in which amendments are to have effect.	
1	2	3	4	5	
			10. In section 46,—		
1880 —ctd.	IX. —ctd.	The Cess Act, 1880—contd.	(i) in sub-section (1), for the words "Lieu- tenant-Governor" substitute the words "Board of Reve- nue;" and	Amendment o (i) —All areas in Bengal in which the Act is win force.	
			(ii) in sub-section (2), for the words from "and the Board of Revenue may" to the end of the sub-section, substitute the following:—	Amendment 10 (ii) —All districts in the Chittagong, Dacca and Raj- shahi Divisions (except the district of Darjenling).	
		,	"and the Collector, if he becomes aware that any separate account opened under subsection (1) does not represent existing facts, may after service of a notice on the recorded proprietor or manager, and after hearing any objection which may be preferred within six weeks of such service, close the account."		
			"Lieutenant-Governor," in the two places in which they occur, substitute the words "Board of Revenue."	All districts in	
			12. In section 57, for the words "Lieutenant-Governor" substitute the words "Board of Revenue."	trict of Dar- jeeling).	

THE SCHEDULE-contd.

PART II .- contd.

Year.	No.	Short Tule.	Amendments	Areas in which amendments are to have effect.
T	2	3	4	5
1880 —cld.	IX. —cld.	The Cess Act. 1880—concld.	i3. In section 83,— (i) for the words "Lieutenant-Governor" substitute the words "Board of Revenue;" and (ii) for the words "subject to him" substitute the words "within	All areas in Bengal in which the Act is in force.
			its jurisdiction." 14. In section 88, for the words "Lieutenant-Governor," in the four places in which they occur, substitute the words "Board of Revenue." 15. In section 100, for the words "Lieutenant-Governor," in the two places in which they occur, substitute the words "Board of Revenue." 16. In section 101, omit the words "with the sanction of the Commissioner." 17. In schedule D, for the words "Lieutenant-Governor" substitute the words "Board of Revenue."	All areas in Bengal in which the Act is in force.
1962		The Bengal Embankment Act, 1882.	1. In section 12, for the words "Board of Revenue" substitute the words "Local Government." 2. Section 13 is repealed. 3. In section 14, for the words "such report from the Board" substitute the words "the report forwarded by the Commissioner."	All areas in Bea-

THE SCHEDULE—continued.

PART II .- contd.

Year.	No.	Short title.	Amendments.	Areas in which amendments are to have effect.
1	2	3	4	5
1882 —cld.	II. —cld.	The Bengal Embankment Act, 1882—concld.	4 In section 15, first paragraph, omit the words "or the Board of Revenue."	-
			5. In section 19, last paragraph, for the words "in the usual manner through the Board of Revenue to the Lieutenant-Governor" substitute the words "to the Local Government."	All areas in Ben-
	•	•	 In section 61, first paragraph, for the words "Lieutenant- Governor" substitute the words 'Commissioner of the Division." 	gal.
			7. In section 73, for the words "Board of Revenue" sub- stitute the words "Com- missioner of the Division."	
1890	ш.	The Calcutta Port Act, 1890.	 For section 20, sub section (1), substitute the following name- ly:—. 	
*	4		"(1) All debentures which are issued under the authority of this Act shall be in such form as the Commissioners with the previous consent of the Local Government, shall from time to time determine;	The Port of
			Provided that, in the case of ster- ling loans, the form of deben- ture shall, be fore issue, be approved by the Governor-Gene- ral in Council."	

THE SCHEDULE—concld.

PART II.—concld.

Benkal Acts-concld.

Year.	No.	Short Title	Amendments.	Areas in which amendments are to have effect.
		3	4	5
1,890 —cld.	III. —cld.	The Calcutta Port Act, 1890. —concld.	2. In section 31, sub-section (3), for the words "Governor-General in Council" substitute the words "Local Government."	
-	•••		". In section 34, sub-section (1), for the words "shall exceed five hundred rupees" substitute the words "amounts to or exceeds, one thousand rupees" 4. The proviso to section 48 is repealed. 5. For section 51 substitute the following, namely:— "51. No new work, the estimated cost of which exceeds two lakhs of rupees, shall be commenced by the Commissioners until the plan and estimate thereof	The Port of Calcutta.
			have been submitted to and approved by, the Local Government." 6. In section 90, first paragraph, omit the words "when thereunto required by the Local Government." 7. In section 92, omit the words "with the sanction of the Local Government." 8. In section 97, sub-section (1),— (i) omit the words "with the sanction of the Local Government." and (ii) for the words "and with the same sanction" substitute the words "with the sanction of the Local Government."	Calcutta

1916. Act 1.

BEN. ACT NO. 1. OF 1916.

The Bengal Smoke-nuisances (Amendment) Act, 1916.

An Act to amend the Bengal Smoke-nuisances Act, 1905.

WHEREAS it is expedient to amend the Bengal Smoke-nuisances Act, 1905, in the manner hereinafter appearing;

It is hereby enacted as follows:-

Si ort title,

- 1. This Act may be called the Bengal Smoke-nuisances (Amendment) Act, 1916.
- 2. For clause (1) of section 3 of the Bengal Smoke-nuisances
 Amendment of section 3. Act, 1905 (hereinafter called the said Act), the following shall be substituted, namely:—
 - "(1) 'furnace' means any furnace or fireplace used—
 - (a) for working engines by steam, or
 - (b) for any other purpose whatsoever:

Provided that no furnace or fireplace-

- (i) used for the burning of the dead, or
- (ii) used in a private house for bonå fide domestic purposes other than the purpose specified in clause (a),

shall be deemed to be a furnace or fireplace within the meaning of this Act."

3. In section 4, sub-section (3), of the said Act, for the words and brackets "One-half of the members (exclusive of the President)" the following shall be substituted, namely:—

"Not more than one-half of the members (including the President)."

Amendment of section 5.

4. After section 5, sub-section (2), of the said Act, the following shall be inserted, namely:—

"(3) Every Inspector appointed under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code."

Amendment of section 6.

- 5. In section 6 of the said Act,—
- (a) for clause (a) of sub-section (1) the following shall be substituted, namely:—
- "(a) the erection or use of any specified class of brick, tile or lime-kilns, or;"

(b) in cluse (b) of sub-section (1), after the word "erection" the words "or use" shall be inserted;

1916. Act 1

- (c) in sub-section (2), after the word "erected" the words "or used" shall be inserted; and
- (d) for sub-section (4), the following shall be substituted, namely:—
- "(4) If any person makes coke in or upon any building or land in contravention of any notification issued under sub-section (1), clause (d),—
 - (a) such person, and
 - (b) the owner (if he knowingly permits the coke to be made by such person) or the occupier of such building or land

shall be jointly and severally liable to fine which may extend, on a first conviction to twenty-five rupees, and on any subsequent conviction to fifty rupees; and the coke so made may be seized by an Inspector pending the order of the Magistrate.

- (5) In any prosecution under sub-section (4), the Magistrate may, besides imposing a fine as aforesaid, record an order directing the confiscation of any coke seized as in that sub-section provided; and, in such a case, it shall be lawful for the Commission to dispose of the same in such manner as the Local Government may, by rule made under section 10, prescribe.
 - (6) For the purposes of sub-section (4),—
 - (i) the expression occupier' means any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the building or land in respect of which the word is used, and includes an owner living in, or otherwise using, his own building or land;
 and
 - (ii) the expression 'owner' includes the person for the time being receiving the rent of any building or land or of any part of any building or land, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a Receiver, or who would so receive such rent if the building, land or part thereof were let to a tenant."
 - 6. In section, 7, sub-section (1), of the said Act, after the words "for erecting," the words "or using" shall be inserted.

Amendment of section 8. 7. Section 8, sub-section (2), of the said Act, is hereby repealed.

New section 8A.

8. After section 8 of the said Act, the following shall be inserted, namely:—

1760

Ant 1

"8A. (1) After the commencement of the Bengal Smoke-nuisances (Amendment) Act, 1916,

Submission of plans and penalty.

- (a) no furnace, flue or chimney shall be erected, and
- (b) no furnace, flue or chimney erected prior to the commencement of the said Act shall be re-erected, altered or added to

otherwise than in accordance with plans approved by the Commission.

(2) In the event of any contravention of the provisions of subsection (1), the owner of the furnace, flue or chimney, as the case may be, shall be liable to fine which may extend to one hundred-rupees, and, if any such furnace, flue or chimney is used without the permission of the Commission, to a further penalty, not exceeding twenty rupees, for every day during which such wrongful use continues."

9. After section 9, sub-section (2), of the said Act, the following shall be inserted, namely:—

"(3) Notwithstanding anything contained in sub-section (1), the Commission, and, in any urgent case, the President may, by order in writing (which shall be produced on de mand to the owner, occupier, manager, engineer or person in charge), authorise any Inspector to enter and inspect without notice and at any time by day or by night any building or place in which the Commission or the President, as the case may be, has reason to believe that a furnace exists or that coke is being made, and to inspect such furnace, building or place:

Provided that if, in any such building, which is a private dwelling-house, there is an apartment in the actual occupancy of a woman who, according to custom, does not appear in public, such Inspector shall before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing.

(4) Whenever the President makes any order under sub-section (3), he shall, as soon thereafter as conveniently may be, report the fact to the Commission."

* Amendment of section 10.

- 10. In section 10 of the said Act,-
- (a) in sub-section (1), the words "with the previous sanction of the Governor-General in Council, and" are hereby repealed:
- (b) for clause (f) of sub-section (2), the following shall be substituted, namely:—

"(f) regulate, with due regard to the safety of shipping, the emission of smoke from the furnaces of vessels;"

1916. Act 1.

- (c) the word "and" at the end of clause (h) of the same subsection, is hereby repealed; and
- (d) after clause (i) of the same sub-section, the following shall be inserted, namely:—
 - "(j) regulate the disposal of coke confiscated under section 6, sub-section (5); and
 - (k) prescribe a procedure to give effect to the provisions of section 8A."

1917. Act 1.

BEN. ACT NO. I. OF 1917.

The Calcutta Municipal (Amendment) Act, 1917.

PUBLISHED IN THE CALCUTTA GAZETTE EXTRAORDINARY
OF THE 13TH SEPTEMBER, 1917.

An Act to amend the Calcutta Municipal Act, 1899.

WHEREAS it is expedient further to amend the Calcutta Municipal Act, 1899,* in the manner hereinafter appearing;

It is hereby enacted as follows:-

Short title.

- 1. This Act may be called the Calcutta Municipal (Amendment) Act, 1917.
- 2. Before clause (1) of section 3 of the Calcutta Municipal Amendment of section 3 Act, 1899* (hereinafter called the said Act), of Bengal Act III. of 1899. the following shall be inserted, namely:—

"Adulterated."

"(a1) ghee shall be deemed to be 'adulterated'—

- (1) if any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality, or
- (ii) if any substance has been substituted wholly or in part for the article, or
- (iii) if any valuable constituent of the article has been wholly or in part abstracted."
- 3. In section 18 of the said Act, after the words and figures

 Amendment of section "section 504" the words, figures, and brackets "section 507, sub-section (5)" shall be inserted.

New sections 495A and 4. After section 495 of the said Act, the following shall be inserted, namely:—

- "295A. (1) Notwithstanding anything contained in section Prohibition of sale etc., 495, no person shall sell, expose or hawk of impure ghee. about for sale, or manufacture or store for sale, any ghee which contains any substance which is not derived exclusively from milk or which is adulterated, unwholesome or unfit for human food.
- (2) No person shall sell, expose or hawk about for sale, or manufacture or store for sale, any article similar to ghee under a name which in any way resembles the name of the article.

(3) In any prosecution under this section it shall be no defence to allege that the vendor manufacturer or storer was ignorant of the nature, subsance or quality of the article sold, exposed or nawked about for sale, or manufactured or stored for sale, by him.

1917. Act 1

- (4) In any prosecution under this section the Court shall, unles and until the contrary is proved, presume that any ghee found in the possession of a person who is in the habit of munufacturing or storing ghee, has been manufactured or stored for sale by such person.
- (5) No proceedings shall be instituted under this section without the written order of the Chairman.
- 495B. (1) No person shall keep or permit to be kept in any Prohibition of adulter. factory, shop or place in which ghee is manufactured or stored, any substance intended to be used for the adulteration of such ghee.
- (2) If any article capable of being so used is found in such factory, the Court shall, unless and until the contrary is proved, presume, in any prosecution under this section, that it is intended so to be used."

Amendment of section 496.

5. In section 496 of the said Act, the word "ghee" shall be omitted.

Amendment of section 503.

6. After sub-section (2) of section 503 of the said Act, the following shall be inserted, namely:—

"(2a) The Chairman may, instead of carrying away any ghee seized under sub-section (2), leave the same in such safe custody as he may think fit in order that the same may be dealt with as hereinafter in this Chapter provided, and no person shall remove such ghee from such custody or interfere or tamper with the same in any way while so detained."

New section 503A.

7. After section 503 of the said Act, the following shall be inserted, namely:—

Application of sections 502 and 503 to ghee in course of transit or stored.

"503A. The provisions of sections 502 and 503 shall also apply to any ghee in course of transit in Calcutta or stored in any place in Calcutta."

8. In sub-section (1) of section 504 and sub-section (1) of sec-Amendment of sections tion 505 of the said Act, after the words and 504 and 505.

• figures "section 503" the words and figures or section 502A" shall be inserted,

1764 CALCUTTA MUNICIPAL (AMENDT.) ACT.

1917. Act 1. 9. In sub-section (1) of section 505 of the said Act, after the

Amendment of section word "forthwith" the words figures and
brackets "subject to the provisions of section 503, sub-section (2a)" shall be inserted.

Amendment of section 507.

- 10. In section 507 of the said Act,—
- (1) after sub-section (1) the following shall be inserted, namely:—
- (1a) The Chairman may require, on tendering the price for it the sale to him, during the process of manufacture or during storage, of any quantity of ghee not being more than is reasonably requisite for division and disposal under sub-section (2) and sub-section (3), and any person in possession of the said ghee shall be bound to sell such quantity.
- (1b) The Chairman may likewise require the surrender to himself, for the purpose of analysis, of such quantity as is reasonably, requisite for such process, of any ghee which is—
 - (a) in course of transit in Calcutta, or
 - (b) stored in any place in Calcutta;

and in every such case the price of the ghee so surrendered shall be payable by the Chirman to the owner of the same, if claimed by such owner within one month from the date said surrender:"

- (2) in sub-section (2) of the said section, the words "offer to" shall be omitted;
- (3) in sub-section (3) of the said section, the words "if such offer be accept ed" and the words "shall proceed accordingly, and" shall be omitted;
- (4) after sub-section (3) of the said section, the following shall be added, namely:—
- "(4) When any ghee is surrendered under sub-section (16), the Chairman shall forthwith notify to the person in charge of the said ghee his intention to have the same analysed, and shall thereupon, so far as may be, proceed to deal with the ghee so surrendered in the manner provided in sub-section (2) and sub-section (3).
- (5) A report signed by an analyst certified by the Chairman to be employed by the Corporation for the purpose of analysing ghee shall be sufficient evidence of the result of such analysis."

(1) after the entries relating to section 495, sub-section (1), the following shall be inserted, namely:—					
"Section 495A, sub- section (1).	Sale, etc., of ghre not derived exclusive- ly from milk or which is adulterated, unwholesome or unfit for human food,	Two hundred rupees for a first offence and one thousand rupees for any subsequent of- fence.			
Section 495A, sub- section (2).	Sale, etc., of article similar to ghee	One hundred rupees for a first offence and five hundred rupees for any subsequent offence.			
Section 495B, sub- section (1).	Keeping or permitting to be kept any substance intended to be used for adulteration of ghee.	One hundred rupees for a first offence and five hundred rupees for any subsequent offence."			
(2) after the entries relating to section 599, sub-section (2), the following shall be inserted, namely:—					
"Section 503, sub- section (2a).	Removing, interfering or tampering with ghee seized and left in custody.	Two hundred rupees."			
(3) for the entries relating to section 507, sub-section (1), the following shall be substituted, namely:—					
"Section 507, subsection (1).	Sale, for purposes of analysis, of food exposed for sale.	Two hundred rupees in case of ghee and fifty rupees in case of other food.			
Section 507, sub-sections (1a) and (1b)	Sale or surrender of ghee for purposes of analysis, during manufacture, etc.	Two hundred rupees."			

1918.

BEN. ACT NO. I. OF 1918.

Act 1.

The Bengal Public Demands Recovery (Amendment) Act, 1918.

- [Published in the Calcutta Gazette on the 23rd January, 1918.]

An Act to amend the Bengal Public Demands Recovery Act, 1913.*

WHEREAS it is expedient to amend the Bengal Public Demands Rocovery Act, 1913, in order to provide for a more effective method of realising the contributions to the assets of a Co-operative Society under liquidation and the costs of such liquidation;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Public Demands Recovery (Amendment) Act, 1918.

Amendment of section 5 of Bengal Actilli, of 1913.

2. After sub-section (1) of section 5 of of the Bengal Public Demands Recovery Act, 1913, the following shall be inserted, namely:-

"Provided that no action shall be taken under this Act on a requisition made by a liquidator in pursuance of an order under clause (b) or clause (d) of sub-section (2) of section 42 of the Cooperative Societies Act, 1912,† unless the requisition be countersigned by the Registrar of Co-operative Societies, Bengal."

Amendment Schedule I.

3. After article 12 of Schedule I to the said Act, the following shall be inserted, namely:-

"12A. Any sum ordered by a liquidator appointed under subsection (1) of section 42 of the Co-operative Societies Act, 1912,† to be recovered as a contribution to the assets of a society or as the cost of liquidation."

† Act II, of 1912.

^{*} Ben. Act III. of 1913. † Act II. of 1912.

BEN. ACT NO. II. OF. 1918.

1918. Act 2.

The Bengal Tenancy (Amendment) Act, 1918.

[PUBLISHED IN THE CALCUTTA GAZETTE ON THE 13TH MARCH, 1918.]

An Act to supplement and amend the Bengal Tenancy Act, 1885.

WHEREAS it is expedient to supplement and amend the Bengal Tenancy Act, 1885,* in the manner hereinafter appearing;

And whereas the previous sanction of the Governor-General has been obtained under section 79 sub-section (2), of the Government of India Act, 1915,† to the passing of this Act;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Bengal Tenancy Amendment Act, 1918.

2. After Chapter VII. of the Bengal Tenancy Act, 1885,*

New Chapter VIIA. the following Chapter shall be inserted, namely:—

"CHAPTER VIIA.

- "Restrictions on alienation of land by aboriginals.
- "49A. (1) This Chapter shall apply in the first instance only to the Sonthals of the districts of Birbhum, Bankura and Midnapore, who shall be deemed to be aboriginals for the purposes of this Chapter.
- (a) The Local Government may, from time to time, by notification published in the Calcutta Gazette, declare that the provisions of this Chapter shall, in any district or local area, apply to such of the following aboriginal castes or tribes as may be specified in the notification, and that such castes or tribes shall be deemed to be aboriginals for the purposes of this Chapter, namely:—

Sonthals of other districts, Bhuiyas, Bhumijes, Garos, Gonds, Hadis, Hajangs, Hos, Kharias, Kharwars, Kochs (Dacca Division), Koras, Maghs (Bakarganj District), Mal and Sauria Paharias, Meches, Mundas, Oraons and Turis.

- (3) The publication of a notification under sub-section (2) shall be conclusive evidence that the provisions of this Chapter have been duly applied to such castes or tribes.
- (4) The Local Government may, by a like notification, declare that this Chapter shall, in any district or local area, cease to apply

^{*} Act VIII. of 1885

1918. Act 2.

to the Sonthals mentioned in sub-section (1) or to any caste or tribe to which it may have been applied under sub-section (2).

- "49B. No transfer by an aboriginal tenure-holder, raiyat or Restrictions on transfer under-raiyat of his right in his tenure or holof tenant rights. ding, or in any portion thereof, by private sale, gift, will, mortgage, lease or any contract or agreement, shall be valid to any extent except as provided in this Chapter.
- "49C. An aboriginal tenure-holder may grant a lease to another aboriginal, to hold the land as a tenure-holder, or to cultivate it as a raiyat, in accordance with the provisions of this Act.
 - "49D. Subject to the provisions of section 85, an aboriginal raiyat may sublet his holding to another aboriginal to cultivate it as an under-raiyat.
- "49E. (1) An aboriginal tenure-holder, raiyat or under-raiyat Usufructuary mortgage may enter with another aboriginal into a by tenure-holder, raiyat complete usufructuary mortgage in respect of or under-raiyat.

 any land under his own cultivation, for any period which does not and cannot, in any possible event, by any agreement, express or implied, exceed seven years, or the period of his own right, whichever is less:

Provided that every mortgage so entered into shall be registered under the Indian Registration Act, 1908.*

(2) An aboriginal tenant's power to mortgage his land shall be restricted to only one form of mortgage, namely, a complete usufructuary mortgage.

Explanation.—A 'complete usufructuary mortgage' means a transfer by a tenant of the right of possession in any land for the purpose of securing the payment of money or the return of grain advanced or to be advanced by way of loan, upon the condition that the loan, with all interest thereon, shall be deemed to bsextinguished by the profits arising from the land during the period of the mortgage.

Application to Collector for transfer in certain cases. "49F. (1) If in any case—

(a) an aboriginal tenure-holder is unable to lease his land as provided in section 49C, or an aboriginal raiyat is unable to sublet his holding as provided in section 49D, or an aboriginal tenure-holder, raiyat or under-raiyat is unable to mortgage his land to another aboriginal as provided in section 49E, sub-section (1), or

'b) an aboriginal tenure-holder, raiyat or under-raiyat desires to transfer his land, or any portion thereof, by private sale, gift or will to any person,

he may apply to the Collector for permission, in case (a) to transfer the same to a person who is not an aboriginal, or in case (b), to transfer the same by private sale, gift or will to any person; and the Collector may pass such order on the application as he thinks fit.

- (2) Every such transfer shall be made by registered deed, and before the deed is registered and the land trasferred, the written consent of the Collector shall be obtained to the terms of the deed and to the transfer.
- (3) Nothing in this section shall validate a transfer of any land or portion thereof which, by the terms upon which it is held, or by any law or local custom, would not be transferable except for the provisions of this section.
- Courts not to register, or recognize as valid, transfers in contravention of this Chapter.

"49G. No transfer by an aboriginal tenure-holder, raiyat or under-raiyat in contravention of the provisions of this Chapter shall be registered or in any way recognized as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.

"49H. (1) If a transfer of a tenure or holding, or any portion thereof, is made by an aboriginal tenure-Power to Collector to holder, raiyat or under-raiyat in contravenset aside improper transfers by tenure-holder, rattion of the provisions of section 49B, or yat or under raiyat. if the transferee has continued or is in possession in contravention of the provisions of section 49E, subsection (1), or section 49F, as the case may be, the Collector may, on his own initiative or on application made in that behalf, by an order in writing, eject the transferee from such tenure, holding or portion:

Provided that—

- (a) the transferee whom it is proposed to eject has not been in continuous possession in contravention of this Act for twelve years, and
- (b) he is given an opportunity of showing cause against the order of ejectment.
- (2) When the Collector has passed any order under subsection (1), he shall either—
 - (a) restore the transferred land to the aboriginal tenure. holder, raiyat or under-raiyat, or his heir or legal representative, or

1918. Act 2. (b) failing the transferor or his heir or legal representative, declare that the right of settlement is vested in the landlord subject to the provisions of section 49], provided that if the right is not exercised within one year, the Collector may within six months, settle the land on behalf of the landlord on such terms as he deems fit with an aboriginal; and, if the Collector is unable to make such settlement within the said period, an unrestricted right of the settlement will vest in the landlord.

Resettlement of certain "49J. (1) Whenever-

- (a) the right of settlement of any tenancy, or any portion thereof, is declared to be vested in the landlord under clause (b) of sub-section (2) of section 49H, or
- (b) an aboriginal tenant surrenders his tenancy, or a portion thereof, or abandons his residence and ceases to hold his tenancy,

the landlord may, subject to the provisions of sections 86 and 87,—

- (i) settle the tenancy, or a portion thereof, with an aboriginal, or
- (ii) with the approval of the Collector in writing, settle the same with a person who is not an aboriginal or retain it in his own possession; provided that such approval shall not be withheld if the Collector is satisfied that the surrender or abandonment referred to in this sub-section is not made with the object of evading the provisions of section 49B, 49E or 49F.
- (2) If any landlord resettles or otherwise deals with any tenancy as aforesaid in contravention of the provisions of subsection (1), the Collector may take action, so far as may be, in accordance with the provisions of section 49H.
- "49K. Notwithstanding anything in this Act, no decree or

 Restrictions on sale of order shall be passed by any Court for the
 tenant rights under order sale of the right of an aboriginal tenureof Court. holder, raiyat or under-raiyat in his tenure
 or holding, or in any portion thereof, nor shall any such right be
 sold in execution of any decree or order:

Provided as follows:—

(a) any tenure or holding belonging to an aboriginal may be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the tenure or holding;

(b) nothing in this section shall affect any right to execute a decree for the sale of any such tenure or holding or the terms or conditions of any bond fide contract relating thereto, if such decree was passed, or such contract registered,—

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- (i) in the case of the Sonthals of the districts of Birbhum, Bankura and Midnapore, before the 1st November, 1916, and
- (ii) in the case of other castes and tribes to which this Chapter has been applied, at least one year before the date of the publication of the notification under section 49A, sub-section (2), in respect to such castes or tribes;
- (c) nothing in this section shall affect any right for the sale of any such tenure or holding for the recovery of any dues which are recoverable as public demands.
- "49L If the sale of a tenure or holding, or any portion thereof
 Stay of execution of is ordered in execution of a decree against an
 decrees. aboriginal tenure-holder, raiyat or underraiyat in respect of such tenancy or portion thereof, the Court
 executing the decree shall allow the tenant reasonable time in
 which to pay the amount due.
- "49M. (1) An appeal, if presented within thirty days from the date of the order appealed against, shall lie to the Collector of the district from any order made under sections 49F, 49H or 49J by any officer in the district exercising the powers of a Collector, and the order of the Collector on appeal shall be final:

Provided that every order passed by the Collector on appeal shall be subject to revision and modification by the Commissioner.

- (2) Notwithstanding anything in sub-section (1), an appeal from any order made under any of the sections mentioned in that sub-section by an officer acting under Chapter' X of this Act shall be to such officer as the Local Government may appoint in this behalf, and the orders of such officer on appeal shall be final:
- Provided that, in every such case, every order passed by the said officer on appeal shall be subject to revision and modification by such officer as the Local Government may appoint to deal therewith.
- (3) An appeal, as provided in sub-section (1), shall lie to the Commissioner from any original order made by the Collector of the district under any of the sections mentioned in that sub-section.

BENGAL TENANCY (AMENDT.) ACT.

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Act 2.

"49N. Notwithstanding anything in this Act, no suit shall lie

Bar to suits.

in any Civil Court to vary or set aside any order passed by the Collector in any proceeding under this Chapter except on the ground of fraud or want of jurisdiction.

- "49-O. Nothing in this Chapter shall affect the validity of any Saving of certain trans. transfer (not otherwise invalid) by a tenure-fers. holder, raiyat or under-raiyat of his tenure or holding, or any portion thereof, made bond fide,—
 - (a) in the case of the Sonthals of the districts of Birbhum, Bankura and Midnapore before the 1st November, 1916, and
 - (b) in the case of other castes and tribes to which this Chapter has been applied, at least one year before the date of the publication of the notification under section 49A, sub-section (2), in respect to such castes or tribes."

BEN. ACT NO. III. OF 1918,

1918.

The Bengal (Aliens) Disqualification Act, 1918.

Act 3.

[PUBLISHED IN THE CALCUTTA GAZETTE ON THE 20TH MARCH, 1918.]

An Act to disqualify certain persons from voting at elections of, or being elected or appointed as members of, or holding office in, local bodies in Bengal.

Whereas it is expedient to disqualify certain persons from voting at elections of, or being elected or appointed as Commissioners of the Corporation of Calcutta or of any other Municipality in Bengal, or as members of District or Local Boards or of Union Committees therein, and also to disqualify them from holding office in any such body;

It is hereby enacted as follows:-

Short title, commencement and local extent.

1. (1) This Act may be called the Bengal (Aliens) Disqualification Act, 1918.

- (2) It shall come into force on such date as the Local Government may direct by notification in the Calcutta Gazette.
 - (3) It extends to the whole of Bengal.
- 2. In this Act, "India" shall mean British India, together with any territories of any Indian Prince or Chief under the suzerainty of His Majesty exercised through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India.
- 3. Notwithstanding anything contained in the Calcutta Municipal Act, 1899,* the Bengal Municipal Act. · Persons disqualified from 1884,† and the Bengal Local Self-Governvoting at elections of, or being members of, or holdment Act of 1885,‡ or in any rule or by-law ing office in, local bodies. made under any of the said Acts, no person who is not a British subject or a subject of any State in India shall be qualified to vote at the election of, or to be a candidate for election as a Commissioner of the Corporation of Calcutta or of any other Municipality in Bengal, or as a member of any District or Local Board or Union Committee therein, or to hold the office of ·Chairman, Deputy Chairman or Vice-Chairman of any such body under the Calcutta Municipal Act, 1899,* the Bengal Municipal Act, 1884. t or the Bengal Local Self-Government Act of 1885, I nor shall such person be appointed to be a Commissioner or a member or to hold any such office under any of the said Acts; and

^{*} Ben, Act III. of 1899. † Ben. Act III. of 1884. ‡ Ben. Act III. of 1885.

1774 BENGAL (ALIENS) DISQUALIFICATION ACT.

1918. Act 3. if, on the date when this Act comes into force, any such person is holding any such office or is a Commissioner of the Corporation of Calcutta or of any other Municipality in Bengal or a member of any District or Local Board or Union Committee therein under any of the said Acts he shall, notwithstanding anything contained in those Acts, be deemed to have vacated his office or seat from such date, and such vacancy shall be filled up in the same manner as if it were caused by resignation duly accepted:

Provided that the Local Government may, with the approval of the Governor-General in Council by notification in the Caicutta Gasette, exempt from the provisions of this section, with effect from the commencement of this Act or from such date as may be specified in the notification, any person or class of persons who are not British subjects or subjects of any State in India.

BEN. ACT NO. IV. OF 1918.

The Serampore College Act, 1918. CONTENTS.

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1918. Act 4. BEN. ACT NO. IV. OF 1918.

The Serampore College Act, 1918.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 1ST MAY, 1918.]

An Act to Supplement, and in certain matters to supersede, the Royal Charter of Incorporation and the Statutes and Regulations of the Serampore College.

Whereas, on the 23rd day of February, 1827, the institution established in Serampore, Bengal, and known as the Serampore College, was incorporated by Royal Charter granted by his late Danish Majesty, King Frederick the Sixth, with the powers and privileges in the said Royal Charter set forth, including the power of conferring upon the students of the said College degrees of rank and honour according to their proficiency in science;

And whereas by Article VI. of the Treaty of Purchase, dated the 22nd February, 1845, transferring Serampore to the British Government, it was provided that the rights and immunities granted to the Serampore College by the said Royal Charter, as translated and contained in Schedule I. to this Act, should not be interfered with, but should continue in force in the same manner as if they had been obtained by a Charter from the British Government, subject to the general law of British India;

And whereas Statutes and Regulations for the better government of the said College and management of its concerns, as contained in Schedule II. to this Act, were, on the 12th day of June, 1833, made and established under the powers conferred by Article 4 of the said Royal Charter;

And whereas, under the provisions of the said Royal Charter, the Council of the College consists of a Master or President and two or four members elected as provided in the said Statutes and Regulations, and the management of the College and its general order and government is vested in the Master and Council, and the said power of conferring degrees of rank and honour is vested in the first Council and their successors for ever;

And whereas it is considered that in order to give effect, under the conditions now existing, to the intentions of his late Danish Majesty and of the founders of the said College, that is to say, to promote piety and learning, particularly among the native Christian population of India, the amendment of the constitution of the College, by the enlargement of the Council on an interdenominational basis, with power to delegate some of its functions, in manner hereinafter appearing, is required;

And whereas the present Council of the said College consists of the Reverend George Pearce Gould, M.A., D.D. Master and President, George Barclay, Leechman, Esq., Sir George Watson Macalpine, LL. D., the Reverend Robert Forman Horton, M.A., D.D., and the Reverend George Howells, M.A., PH. D., Principal of the College;

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And whereas it is deemed expedient by the Governor in Council, with the consent of the said Council of the Serampore College, that a Faculty and Senate be constituted for the said College in manner hereinafter appearing and that suitable standards be imposed in regard to any secular degrees that may hereafter be conferred by the said Council under the terms of the said Royal Charter;

And whereas it is necessary to make provision for the above purposes by subjecting the said Royal Charter, Statutes and Regulations to an Act of the Legislature under the general law of British India in accordance with the terms of the aforesaid Treaty;

And whereas the previous sanction of the Governor-General in Council has been obtained to the passing of this Act;

It is hereby enacted as follows:-

- Short title.

 1. This Act may be called the Serampore College Act, 1918.
- 2. (1) The Council of the Serampore College as constituted Constitution of the by the Royal Charter of the 23rd day of Council.

 February, 1827, shall be enlarged so as to consist of not less than five nor more than sixteen ordinary members, including the Master, as the Council may from time to time determine. The first Council constituted under this section shall include the present Master and President and the other present members.
- (2) At least one-third of the members of the Council shall be members of the Baptist denomination.
 - . (3) The Master shall be the President of the Council.
- (4) The Principal of the College, if not an ordinary member, shall be an additional member of the Council ex officio during his term of office as Principal of the College.
- (5) Until otherwise determined by by-law made under section 14, three members of the Council shall form a quorum.
 - 3. Any member of the Council may at any time resign his office by notice in writing to the Master, provided that no such resignation shall be

1918. deemed to take effect so long as the total number of members of the Council shall by reason thereof be less than five.

- 4. On any vacancy occurring in the office of Master the remaining members of the Council shall Election of Master. elect another person, whether one of their number or not, to fill his place.
- 5. The Council shall within one year from the date of the commencement of this Act, constitute and The College Faculty. appoint in the manner prescribed in section 6 a body to be known as the College Faculty.
- 6. (1) The Faculty shall consist of the Principal (who shall be Constitution of the Col. its President) and such of the professors and lege Faculty.

 other officials and functionaries of the College as may be appointed by the Council in accordance with by-laws made under section 14.
- (2) The Council shall from time to time prescribe and declare by order in writing the powers and duties of the Faculty, and may remove any member thereof.
- 7. The Council may delegate to the Faculty all or any of the Delegation of Council's powers and duties of the Council and Master, which concern only the internal manpowers and duties. agement of the College and its general order and good government.
- 8. The Council shall, within one year from the date of the The Senate of the Col. commencement of this Act, constitute and appoint in the manner prescribed in section 9 a body to be known as the Senate of the College.
- 9. The Senate shall consist of the Principal (who shall be convener) and not less than twelve nor Constitution of the Semore than eighteen persons as the Council. may from time to time determine, to be appointed by the Council:

Provided that-

- (a) at least one and not more than three representatives of each of the following Christian denominations, viz., Anglican, Baptist, Congregational, Lutheran, Methodist, Presbyterian and Syrian, shall, as far as practicable, be members of the Senate;
- (b) at least two-thirds of the members shall be persons other than professors, officials or functionaries of College;
- (c) not less than one-sixth of the members shall be members of the College Faculty.

10. (1) Subject to the provisions of clause 11 of the Statutes
Term of office of mem. and Regulations of the College, which shall
bers of the Senate. be deemed to apply to members of the
Senate, each member of the Senate shall hold office for a period
of five years, at the expiration of which period he shall retire,
but he shall be eligible for reappointment:

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Provided that the Principal shall not, during the term of his office as Principal, be subject to retirement, unless he becomes disqualified under the provisions of clause 11 of the Statute and Regulations.

- (2) Any member of the Senate may, by notice in writing to the Master, resign his membership at any time.
- Duties of the Senate.

 Duties of the Senate.

 Duties of the Senate.

 for the conduct of examinations, and shall, subject to the control of the Council, determine the qualifications for degrees and diplomas, and do and perform all other matters and things, necessary or proper for or relating to the determination of the eligibility of candidates for degrees diplomas and certificates to be conferred by the Council.
- 12. Subject to the provisions of this Act, the Senate shall Power of the Senate to make rules and regulations for the commake rules and regulations vening of its meetings and for the proper conduct of its business.
- Granting of degrees.

 Granting of degrees.

 Granting of degrees.

 Granting of degrees.

 In any branch or branches of knowledge and science other than theology, such degrees shall be confined to students who shall have received regular instruction at the Serampore College; and before the Council proceeds to grant such degrees, it shall satisfy the Government as defined in section 2 (b) of the Indian Universities Act, 1904,* in relation to the University of Calcutta as to the adequacy—
 - (1) of the establishment and equipment of the College.
 - (2) of the academic standard to be maintained; and
 - .(3) of the financial provision made therefor:

Provided that the said Government, on ceasing to be so satisfied may withdraw their approval of the granting of such degrees.

Power of the Council to Charter, Statutes and Regulations, so far as make by-laws. Charter providing for and regulating the following matters, namely:—

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- (a) the convening of meetings of the Council;
- (b) the quorum to be required at meetings of the Council and the conduct of business at such meetings;
- (c) the appointment of members of the Council, Faculty and Senate;
- (d) the duties to be performed by the Faculty under the direction and control of the Council;
- (e) the conferring of degrees, diplomas and certificates on the recommendation of the Senate;
- (f) the terms and tenure of appointments, duties, emoluments, allowances and superannuation allowances of the Principal. Professors, Fellows, Tutofs and other officers of the College and of its servants;
- (g) the finances and accounts of the College and the investment of its funds;
- (h) the person or persons by whom, and the manner and form in which, contracts by or on behalf of the College may be entered into, varied or discharged, and deeds, agreements, contracts, cheques, and other negotiable instruments and documents may be signed or executed on behalf of the College, and minutes and proceedings of meetings of the Council, Faculty or Senate may be authenticated or evidenced so as to bind the College and be receivable in evidence in accordance with the provisions of the Indian Evidence Act, 1872*;
- (i) the custody and use of the common seal; and
- (j) generally all such other matters as may be required or authorized under this Act and the said. Royal Charter, Statutes and Regulations, so far as they are not inconsistent with this Act.
- 15. The provisions of the said Royal Charter and of the

 Statutes and Regulations made thereunder so far as they are contrary to or inconsistent with any of the terms of this Act, shall be deemed to be superseded from the date of the commencement of this Act:

Provided that nothing in this Act shall render invalid any acts performed, duties imposed or liabilities incurred prior to the date on which this Act comes into force in accordance with the terms of the said Royal Charter, and of the Statutes and Regulations made thereunder.

SCHEDULE 1.

1918 Act 4.

[See Preamble and sections 2 (1) 14 and 15.]

Charter of Incorporation of the Serampore College.

WE Frederick the Sixth, by the Grace of God King of Denmark, the Venders and Gothers, Duke of Slesvig Holsten, Stormarn, Ditmarsken, Limessborg and Oldenborg, by these writings make known and publicly declare, that whereas William Carey and Joshua Marshman, Doctors of Divinity, and John Clark Marshman, Esq., inhabitants of our town of Fredericksnagore (or Serampore) in Bengal, being desirous of founding a College to promote piety and learning particularly among the native Christian population of India, have to secure this object erected suitable buildings and purchased and collected suitable books, maps, etc., and have humbly be sought us to grant unto them and such persons as shall be elected by them and their successors to form the Council of the College in the manner to be hereafter named, our Royal Charter of Incorporation that they may the more effectually carry into execution the purposes above mentioned: -We being desirous to encourage so laudable an undertaking, have of our special grace and free motion ordained, constituted, granted and declared, and by these presents We do for ourselves, our heirs and successors ordain, constitute, grant and declare:

- 1. That the said William Carey, Joshua Marshman and John Clark Marshman, and such other person or persons as shall successively be elected and appointed the Council of the said College, in the manner hereafter mentioned, shall by virtue of these presents be for ever hereafter one body politic and incorporate by the name of the Serampore College for the purposes aforesaid to have perpetual succession and to have a common seal, and by the said name to sue and to be sued, to implead and be impleaded, and to answer and be answered unto in every Court and place belonging to us, our heirs and successors.
- 2. And We do hereby ordain, constitute and declare that the persons hereby incorporated and their successors shall for ever be competent in law to purchase, hold and enjoy for them and their successors any goods and chattels whatsoever and to receive, purchase, hold and enjoy, they and their successors, any lands, tenements or hereditaments whatever and that they shall have full power and authority to sell, exchange or otherwise dispose of any real or personal property to be by them acquired as aforesaid, unless the sale or alienation of such property be specially prohibited by the donor or donors thereof, and to do all things relating to the said College or Corporation in as ample a manner or form as any of our liege subjects, or any other body politic or corporate in our said kingdom or its dependencies may or can do

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- 3. And We do hereby ordain, grant and declare that the number of Professors, Fellows or Student Tutors and Students shall be indefinite and that the said William Carey, Joshua Marshman and. John Clark Marshman shall be the first Council of the said College, and that in the event of its appearing to them necessary during their lifetime, or in the case of the death of any one of the three members of the said first Council, the survivors or survivor shall and may under their respective hands and seals appoint such other person or persons to be members of the Council of the College, and to succeed each other so as to become members of the said Council in the order in which they shall be appointed, to the intent that the Council of the said College shall for ever consist of at least three persons.
- 4. And We do hereby further ordain, grant and declare, that for the better government of the said College and the better management of its concerns, the said William Carey, Joshua Marshman and John Clark Marshman, the members of the first Council, shall have full power and authority for the space of ten years from the date of these presents, to make and establish such Statutes as shall appear to them useful and necessary for the government of the said College, in which Statutes they shall define the powers to be entrusted to their successors, to the Professors. the Fellows or Student Tutors and the other officers thereof, and the duties to be performed by these respectively for the management of the estates, lands, revenues and goods-and of the business of the said College, and the manner of proposing, electing, admitting and removing all and every one of the Council, the Professors. the Fellows or Tutors, the officers, the students and the servants thereof, and shall make and establish generally all such other Statutes as may appear to them necessary for the future good government and prosperity of the said College, provided that these Statutes be not contrary to the laws and Statutes of our realm.
- 5. And We do hereby further ordain, grant and declare that the Statutes thus made and established by the said three members of the first Council and given or left in writing under their respective hands, shall be valid and in full force at the expiration of ten years from the date of these presents, so that no future Council of the College shall have power to alter, change or vary them in any manner whatever, and that the Statutes shall for ever be considered the constitution of the said College. And We do hereby appoint and declare that these Statutes shall be made and established by the said William Carey, Joshua Marshman and John Clark Marshman alone, so that in case either of them should die before the expiration of ten years, the power of completing or perfecting these Statutes shall devolve wholly on the survivors or survivor; and that in case all three of them should die before the expiration of ten years, the Statutes which they have left in writing under their hands, or under the hand of the last survivor among them, shall be considered "The

Fundamental Statutes and Constitution of Serampore College," incapable of receiving either addition or alteration, and shall and may be registered in our Royal Court of Chancery as "The Statutes and Constitution of Serampore College."

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- 6. And We do hereby further appoint, grant and declare that from and after the completion of the Statutes of the said College in the above said time of ten years, the said Council of the College shall be deemed to consist of a Master or President and two or four members who may be Professors or otherwise as the Statutes may direct so that the said Council shall not contain less than three, nor more than five persons, as shall be defined in the Statutes. The Council shall ever be elected as the Statutes of the College may direct, yet the said Master or President shall always previously have been a member of the College; and upon the decease of the said Master or President, the Council of the said College shall be unable to do any act or deed until the appointment of a new Master or President, save and except the appointment of such a Master.
- 7. And We further appoint, grant and declare that the said William Carey, Joshua Marshman and John Clark Marshman, the members of the first Council, and their successors for ever, shall have the power of conferring upon the students of the said College, native Christians as well as others, degrees of rank and honour according to their proficiency in as ample a manner as any other such College, yet the said Scrampore College shall only have the power of conferring such degrees on the students that testify their proficiency in Science, and no rank of other special right shall be connected therewith in our dominions. And We do hereby further appoint, grant, and declare, that after the expiration of the said ten years, the said Council of the College and their successors for ever shall have power to make and establish such orders and bylaws as shall appear to them useful and necessary for the government of the said College, and 'to alter, suspend or repeal those already made, and from time to time make such new ones in their room as shall appear to them most proper and expedient, provided the same be not repugnant to the Statutes of the College or the laws of our realm, and that after the expiration of these ten years any member of the Council shall have power to move the enactment of any new by-law, or the alteration, suspension or repeal of any existing one provided notice of such motion shall have been delivered in writing to the Master and read from the Chair at one previous meeting of the Council of the said College, but that no such motion shall be deemed to have passed in the affirmative, until the same shall have been discussed and decided by ballot at another meeting summoned especially for that purpose, a majority of the members then present having voted in the affirmative; and in this as in all other cases, if the votes be equal, the Master or President shall have the casting vote.

Given at our Royal Palace in Copenhagen on the twenty-third day of February in the year of our Lord one thou-

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sand eight hundred and twenty-seven, in the nineteenth year of our reign.

Under our Royal Hand and Seal.

FREDERICK R.

SCHEDULE II.

[See Preamble and sections 10 (1), 14 and 15.]

Statutes and Regulations of the Serampore College, June 12th, 1833.

- 1. Article the Third of the Charter granted by His Danish Majesty, having authorized the first C ouncil of Serampore College in their lifetime to nominate under their hand and seal such other person or persons for colleagues or successors as may to them appear most proper so that the Council shall always consist of at least three persons, their successors in the Council shall be competent in like manner to nominate in their lifetime under their separate hand and seal such person or persons as they may deem most proper to fill vacancies then existing or which may occur on their demise; members thus nominated and chosen shall succeed to the Council in order of their nomination.
- 2. It being fixed in the Charter that the Council must consist of the Master or President and at least two, but not more than four members, and that on the demise of the Master no act shall be done until another be elected, the Master and Council for the time being shall appoint the next Master under their separate hand and seal. If on the demise of a Master no one be found thus appointed under the hand and seal of a majority of the Council, the senior member of the Council shall succeed as Master.
- 3. The Charter having given the casting vote to the Master, in all cases when the votes are equal the casting vote shall lie with the Master, and if there be no Master, it shall lie with the Senior Member of the Council.
- 4. Learning and piety being peculier to no denomination of Christians, one member of the Council may at all times be of any other denomination besides the Baptist to preserve the original design of the Institution. However if on the election of a Master a number of the Council be equally divided, that part which is entirely of the Baptist denomination shall have the casting vote, whether includes the Master or not.
- 5. The management of the College, including its revenues and property, the choice of the Professor and Tutors, the admission of students, the appointment of all functionaries and servants and the general order and government of the College, shall ever be

vested in the Master and the Council. The Master shall see that the Statutes and Regulations of the Council be duly carried into effect, and take order for the good government of the College in all things. His signature is necessary to the valdity of all deeds, instruments, documents and proceedings.

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- 6. "The first Council and their successors for ever" being authomized by the Charter "to confer such degrees of rank and honour as shall encourage learning" in the same manner as other Colleges and Universities, they shall from time to time confer degrees in such branches of Knowledge and Science as may be studied there, in the same manner as the Universities in Denmark, Germany and Great Britain. In doing this the Master and Council shall ad libitum call in the aid of any or all the Professors of Serampore College. All such degrees shall be perfectly free of expense to the person on whom they may be conferred, whether he be in India, Europe or America.
- 7. No oaths shall be administered in Scrampore College either to the Members of the Council, the Professors and Tutors, or the students. In all cases a solemn promise, duly recorded and signed by the party, shall be accepted instead of an oath.
- 8. Marriage shall be no bar to any office or situation in Serampore College, from that of the Master to that of the lowest student.
- 9. The salaries of the Professors and Tutors in Serampore College shall be appointed and the means of support for all functionaries, students and servants be regulated by the Council in such manner as shall best promote the objects of the Institution.
- 10. It is intended that neither the Master nor any Member of the Council in general shall receive any salary. But any Master who may not previously reside in the College shall have a residence there free of rent for himself and his family. And it the Council shall elect any one in Europe or in America, whom they deem eminent for learning and piety, a member of the Council, with a view to choosing him Master should they on trial deem him worthy, the Council shall be competent to appoint him such salary as they may deem necessary, not exceeding, however, the highest given to a Professor.
- 11. As the founders of the College deem the belief of Christ's Divinity and Atonement essential to vital Christianity, the promotion of which is the grand object of this Institution, no one shall be eligible to the College Council or to any Professorship who is known to oppose these doctrines, and should any one of the Professors or any member of the Council unhappily change his views after his election as to oppose these fundamental doctrines of Christianity, on this being clearly and decidedly proved from his teaching or his writings, he shall vacate the office he previously held. But every

proceeding of this nature on the part of the College Council shall be published to the Christian world, with the proofs on which it may rest, as an Appendix to the succeeding Report.

- 12. Members of the Council are eligible from among the Professor of the College, or from among any in India, Europe, or America, whom the College Council may deem suitable in point of learning, piety, and talent.
- 13. Students are admissible the discretion of the Council from any body of Christians, whether Protestant, Roman Catholic, the Greek, or the Armenian Church; and for the purpose of study, from the Musalman and Hindu youth, whose habits forbid their living in the College. No caste, colour, or country shall bar any man from admission into Serampore College.
- 14. Expulsion shall be awarded in cases of open immorality, incorrigible idleness, neglect of the College Statutes and Regulations, or repeated disobedience to the officers of the College.
- 15. Any person in India, Europe or America shall be at liberty to found any Professorship, or to attach to Serampore College any annual exhibition or prize for the encouragement of learning in the same manner as in Universities of Great Britain, regulating such endowment according to their own will; and it shall be the duty of the College Council to carry such benefactions into effect in strict consonance with the will of the donors as far as shall be consistent with the Statutes of the College.
- 16. It shall be lawful for the first Council of the College or their successors to make and rescind any by-laws whatever, provided they be not contrary to these Statutes.
- 17. The Charter having declared that the number of the Protessors and Students in Serampore College remains unlimited, they shall be left thus unlimited, the number to be regulated only by the gracious providence of God and the generosity of the public in India, Europe and America.

BEN. ACT NO. V. OF 1918.

1918. Act 5.

The Chittagong Port (Amendment) Act, 1918.

PUBLISHED IN THE CALCUTTA GAZETTE OF THE 18TH SEPTEMBER, 1918.

An Act to amend the Chittagong Port Act, 1914.*

WHEREAS it is expedient to amend the Chittagong Port Act, 1914, in the manner hereinafter appearing;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Chittagong Port (Amendment) Act, 1918.

Amendment of section 58 of Bengal Act V. of 1914.

2. In section 58 of the Chittagong Port Act 1914.*—

- (1) sub-section (2), and
- (2) in sub-section (3), the words, figure and brackets "Subject to the limits enacted by sub-section (2)," shall be omitted.

^{*} Ben, Act V. of 1914.

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